रजिस्ट्री सं. डी.एल. (एन) 04/0007/2003—05 REGD. NO. D. L. (N) 04/0007/2003—05

भारत का राजपत्र
The Gazette of India

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सं. 24] नई दिल्ली, जून 11—जून 17, 2023, शनिवार/ज्येष्ठ 21—ज्येष्ठ 27, 1945
No. 24] NEW DELHI, JUNE 11—JUNE 17, 2023, SATURDAY/JYAISHTHA 21—JYAISHTHA 27, 1945

इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह पृथक संकलन के रूप में रखा जा सके
Separate Paging is given to this Part in order that it may be filed as a separate compilation

भाग II—खण्ड 3—उप-खण्ड (ii)
PART II—Section 3—Sub-section (ii)

भारत सरकार के मंत्रालयों (रक्षा मंत्रालय को छोड़कर) द्वारा जारी किए गए सांविधिक आदेश और अधिसूचनाएं
Statutory Orders and Notifications Issued by the Ministries of the Government of India
(Other than the Ministry of Defence)

वित्त मंत्रालय

(आर्थिक कार्य विभाग)

नई दिल्ली, 31 मई, 2023

का.आ. 936.—केंद्रीय सरकार, राजभाषा (संघ के शासकीय प्रयोजनों के लिए प्रयोग) नियम, 1976 के नियम 10 के उप-नियम(4) के अनुसरण में, वित्त मंत्रालय, आर्थिक कार्य विभाग के प्रशासनिक नियंत्रणाधीन भारतीय प्रतिभूति और विनिमय बोर्ड, पश्चिमी प्रादेशिक कार्यालय, सेबी भवन, पंचवटी प्रथम लेन, अहमदाबाद-380006, गुजरात जिसके 80 प्रतिशत से अधिक कर्मचारीवृंद ने हिंदी का कार्यसाधक ज्ञान प्राप्त कर लिया है, को एतद्वारा अधिसूचित करती है:

भारतीय प्रतिभूति और विनिमय बोर्ड,
पश्चिमी प्रादेशिक कार्यालय, सेबी भवन
अहमदाबाद-380006, गुजरात

[फा. सं. 11013/06/2020-हिंदी]

अपर्णा भाटिया, सलाहकार (प्रशा.)

MINISTRY OF FINANCE

(Department of Economic Affairs)

New Delhi, the 31st May, 2023

S.O. 936.—In pursuance of Sub-rule(4) of Rule 10 of the Official Language (Use for Official Purposes of the Union) Rules, 1976, the Central Government, hereby, notify the Securities and Exchange Board of India, Western Regional Office, SEBI Bhavan, Panchvati 1st Lane, Ahmedabad-380006, Gujarat under the administrative control of Ministry of Finance, Department of Economic Affairs, whereof more than 80% of the staff have acquired working knowledge of Hindi:

Securities and Exchange Board of India,

Western Regional Office, SEBI Bhavan Ahmedabad-380006, Gujarat

[F. No. 11013/06/2020-Hindi]

APARNA BHATIA, Advisor (Admn.)

कार्मिक, लोक शिकायत तथा पेंशन मंत्रालय

(कार्मिक और प्रशिक्षण विभाग)

नई दिल्ली, 16 जनवरी, 2023

का.आ. 937.—केन्द्र सरकार, एतद्वारा दिल्ली विशेष पुलिस स्थापना अधिनियम, 1946 (1946 का 25) की धारा 5 की उप-धारा (1) सपठित धारा 6 द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए त्रिपुरा राज्य सरकार, गृह विभाग की अधिसूचना सं. एफ.13(24)-पीडी/15(पार्ट)/750, दिनांक 11.03.2022 सपठित इसका शुद्धि पत्र सं एफ.13(24)-पीडी/15(पार्ट), दिनांक 15.12.2022 के माध्यम से जारी सम्मति से पश्चिम अगरतला थाना में भारतीय दण्ड संहिता, 1860 (1860 का 45) की धाराएं 420 और 34 के तहत दर्ज अपराध सं. 164/2014, दिनांक 18.09.2014 से संबंधित अपराध(धों) का अन्वेषण करने के लिए तथा ऐसे अपराध(धों) से जुड़े या उससे संबद्ध किसी दुष्प्रयास, दुष्प्रेरणा एवं/अथवा षड्यंत्र एवं/अथवा उसी संव्यवहार में किए गए या उन्हीं तथ्यों से उत्पन्न किसी अन्य अपराध का अन्वेषण करने के लिए दिल्ली विशेष पुलिस स्थापना के सदस्यों की शक्तियों और क्षेत्राधिकार का विस्तार समस्त त्रिपुरा राज्य में करती है।

[फा. सं. 228/13/2018- एवीडी-II (Vol.II)]/1]

संजय कुमार चौरसिया, अवर सचिव

MINISTRY OF PERSONNEL, PUBLIC GRIEVANCES AND PENSIONS

(Department of Personnel And Training)

New Delhi, the 16th January, 2023

S.O. 937.—In exercise of the powers conferred by sub-section (1) of section 5 read with section 6 of the Delhi Special Police Establishment Act, 1946 (25 of 1946), the Central Government with the consent of the State Government of Tripura, issued vide Notification No. F.13(24)-PD/15(Part)/750 dated 11.03.2022 r/w its Corrigendum issued vide No. F.13(24)-PD/15(Part) dated 15.12.2022 of Home Department, hereby extends the powers and jurisdiction of the members of the Delhi Special Police Establishment to the whole State of Tripura for investigation into the offence(s) relating to West Agartala PS Case No.164/2014 dated 18.09.2014, under sections 420 and 34 of the Indian Penal Code, 1860 (45 of 1860) and any attempt, abetment and/or conspiracy, in relation to or in connection with such offence(s) and/or for any other offence committed in the course of the same transaction or arising out of the same facts.

[F. No. 228/13/2018-AVD-II (Vol. II)]/1]

SANJAY KUMAR CHAURASIA, Under Secy.

नई दिल्ली, 16 जनवरी, 2023

का.आ. 938.—केन्द्र सरकार, एतद्वारा दिल्ली विशेष पुलिस स्थापना अधिनियम, 1946 (1946 का 25) की धारा 5 की उपधारा (1) सपठित धारा 6 द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए त्रिपुरा राज्य सरकार, गृह विभाग की अधिसूचना सं. एफ.13(24)-पीडी/15(पार्ट)/750, दिनांक 11 मार्च, 2022 तथा संख्या एफ.13(24)-पीडी/15 (पार्ट) (एल)/2869, दिनांक 12.09.2022 के माध्यम से जारी सम्मति से, निम्नलिखित तालिका में उल्लिखित मामलो से जुड़े अपराध(धों) का अन्वेषण तथा ऐसे अपराध(धों) से जुड़े या उससे संबद्ध किसी दुष्प्रयास, दुष्प्रेरणा और/अथवा षड्यंत्र एवं/अथवा उसी संव्यवहार में किए गए या उन्हीं तथ्यों से उत्पन्न किसी अन्य अपराध का अन्वेषण करने के लिए दिल्ली विशेष पुलिस स्थापना के सदस्यों की शक्तियों और क्षेत्राधिकार का विस्तार समस्त त्रिपुरा राज्य में करती है:-

तालिका

क्र.सं.	मामला सं., कानून की धारा एवं थाना
1.	भारतीय दण्ड संहिता (1860 का 45) की धाराएँ 420, 406 और 34 के तहत मामला सं. 27/2013, दिनांक 21.03.2013, कुमारघाट थाना
2.	भारतीय दण्ड संहिता (1860 का 45) की धारा 420 के तहत मामला सं. 105/2012, दिनांक 24.08.2012, तेलियामुरा थाना
3.	भारतीय दण्ड संहिता (1860 का 45) की धाराएँ 406 और 420 के तहत, मामला सं. 190/2014 दिनांक 29.10.2014, पूर्वी अगरतला थाना
4.	भारतीय दण्ड संहिता (1860 का 45) की धाराएँ 420, 506, 323 और 34 के तहत मामला सं. 76/2012, दिनांक 03.04.2012, पश्चिमी अगरतला थाना
5.	भारतीय दण्ड संहिता (1860 का 45) की धाराएँ 405, 406, 409, 415, 417, 420, 120बी और 34 के तहत मामला सं. 83/2013, दिनांक 09.05.2013, पूर्वी अगरतला थाना
6.	भारतीय दण्ड संहिता (1860 का 45) की धाराएँ 420, 406 और 34 तथा टीपीआईडी अधिनियम, 2011 की धारा 3 के तहत मामला सं. 150/2013, दिनांक 24.05.2013, पश्चिमी अगरतला थाना
7.	भारतीय दण्ड संहिता (1860 का 45) की धाराएँ 406, 405 और 420 तथा टीपीआईडी अधिनियम, 2011 की धारा 3 के तहत मामला सं. 241/2014, दिनांक 10.10.2014, बेलोनिया थाना
8.	भारतीय दण्ड संहिता (1860 का 45) की धाराएँ 406, 409, और 420 के तहत मामला सं. 177/2013, दिनांक 11.05.2013, आर.के. पुर थाना
9.	भारतीय दण्ड संहिता (1860 का 45) की धाराएँ 420, 406 और 120बी के तहत मामला सं. 77/2012, दिनांक 24.09.2012, जिरानिया थाना
10.	भारतीय दण्ड संहिता (1860 का 45) की धाराएँ 420, 506 और 34 तथा टीपीआईडी अधिनियम, 2011 की परिवर्धित धारा 3 के तहत मामला सं. 98/2013, दिनांक 25.05.2013, धर्मानगर थाना
11.	भारतीय दंड संहिता (1860 का 45) की धाराएँ 420 एवं 409 के तहत मामला सं. 49/2013, दिनांक 23.05.2013, कंचनपुर थाना
12.	भारतीय दंड संहिता (1860 का 45) की धाराएँ 406 एवं 420 और टीपीआईडी अधिनियम, 2011 की परिवर्धित धारा 3 तथा भारतीय दंड संहिता (1860 का 45) की धाराएँ 120 बी एवं 34 के तहत मामला सं. 272/2014, दिनांक 16.12.2014, बेलोनिया थाना
13.	भारतीय दंड संहिता (1860 का 45) की धाराएँ 406 एवं 420 और टीपीआईडी अधिनियम, 2011 की धारा 3 के तहत मामला सं. 91/2014, दिनांक 22/05/2014, सोनामुरा थाना
14.	भारतीय दंड संहिता (1860 का 45) की धारा 420 के तहत मामला सं. 48/2012, दिनांक 01.06.2012, खोवई थाना
15.	भारतीय दंड संहिता (1860 का 45) की धाराएँ 420, 403, 406 एवं 34 के तहत मामला सं. 59/2012, दिनांक 07.07.2012, खोवई थाना

16.	भारतीय दंड संहिता (1860 का 45) की धाराएँ 406 एवं 420 के तहत मामला सं.108/2012, दिनांक 08.06.2012, बिशालगढ़ थाना
17.	भारतीय दंड संहिता (1860 का 45) की धाराएँ 406 एवं 420 के तहत मामला सं. 22/2013, दिनांक 30.08.2013, ओम्पी थाना
18.	भारतीय दंड संहिता (1860 का 45) की धाराएँ 420, 406 एवं 34 और टीपीआईडी अधिनियम, 2011 की धारा 3 के तहत मामला सं. 154/2013, दिनांक 30.05.2013, पश्चिम अगरतला थाना
19.	भारतीय दंड संहिता (1860 का 45) की धाराएँ 420 एवं 406 के तहत मामला सं. 46/2013, दिनांक 15.05.2013, सबरूम थाना
20.	भारतीय दंड संहिता (1860 का 45) की धाराएँ 420, 406 एवं 34 और टीपीआईडी अधिनियम, 2011 की परिवर्धित धारा 3 के तहत मामला सं. 57/2013, दिनांक 28.06.2013, कमालपुर थाना
21.	भारतीय दंड संहिता (1860 का 45) की धारा 420 के तहत मामला सं. 51/2013, दिनांक 16.05.2013, तेलीयामुरा थाना
22.	भारतीय दंड संहिता (1860 का 45) की धाराएँ 420 एवं 406 एवं 34 और टीपीआईडी अधिनियम, 2011 की धारा 3 के तहत मामला सं. 138/2013, दिनांक 13.05.2013, पश्चिम अगरतला थाना
23.	भारतीय दंड संहिता (1860 का 45) की धाराएँ 420 एवं 406 एवं 34 और टीपीआईडी अधिनियम, 2011 की धारा 3 के तहत मामला सं. 207/2013, दिनांक 20.07.2013, पश्चिम अगरतला थाना
24.	भारतीय दंड संहिता (1860 का 45) की धाराएँ 420, 406 एवं 34 के तहत मामला सं. 143/2011, दिनांक 05.10.2011, धर्मानगर थाना
25.	भारतीय दंड संहिता (1860 का 45) की धाराएँ 406 एवं 420 और टीपीआईडी अधिनियम, 2011 की धारा 3 के तहत मामला सं. 92/2014, दिनांक 22.05.2014, सोनामुरा थाना
26.	भारतीय दंड संहिता (1860 का 45) की धाराएँ 420, 406, 34 एवं 506 और टीपीआईडी अधिनियम, 2011 की धारा 3 के तहत मामला सं. 180/2013, दिनांक 25.06.2013, पश्चिम अगरतला थाना
27.	भारतीय दंड संहिता (1860 का 45) की धाराएँ 420, 406 एवं 34 और टीपीआईडी अधिनियम, 2011 की धारा 3 के तहत मामला सं. 127/2013, दिनांक 07.05.2013, पश्चिम अगरतला थाना
28.	भारतीय दंड संहिता (1860 का 45) की धारा 420 के तहत मामला सं. 44/2013, दिनांक 25.02.2013 ,पश्चिम अगरतला थाना
29.	भारतीय दंड संहिता (1860 का 45) की धाराएँ 420, 406 एवं 34 और टीपीआईडी अधिनियम, 2011 की धारा 3 के तहत मामला सं. 109/2013, दिनांक 26.06.2013, पूर्वी अगरतला थाना
30.	भारतीय दंड संहिता (1860 का 45) की धाराएँ 420 एवं 34 के तहत मामला सं. 30/2010, दिनांक 04.03.2010, धर्मानगर थाना
31.	भारतीय दंड संहिता (1860 का 45) की धाराएँ 420, 406 एवं 34 के तहत मामला सं. 102/2011, दिनांक 08.07.2011, धर्मानगर थाना
32.	भारतीय दंड संहिता (1860 का 45) की धाराएँ 420, 406 एवं 34 के तहत मामला सं. 178/2011, दिनांक 04.12.2011, कैलाशहर थाना
33.	भारतीय दंड संहिता (1860 का 45) की धाराएँ 420, 406 एवं 34 तथा टीपीआईडी अधिनियम, 2011 की धारा 3 के तहत मामला सं. 128/2013, दिनांक 08.05.2013, पश्चिम अगरतला थाना
34.	भारतीय दंड संहिता (1860 का 45) की धाराएँ 420, 406 एवं 34 और टीपीआईडी अधिनियम, 2011 की धारा 3 के तहत मामला सं. 130/2013, दिनांक 09.05.2013, पश्चिम अगरतला थाना

[फा. सं. 228/13/2018- एवीडी-II (Vol.II))/2]

संजय कुमार चौरसिया, अवर सचिव

New Delhi, the 16th January, 2023

S.O. 938.— In exercise of the powers conferred by sub-section (1) of section 5 read with section 6 of the Delhi Special Police Establishment Act, 1946 (25 of 1946), the Central Government with the consent of the State Government of Tripura, issued vide Notification No. F.13(24)-PD/15(Part)/750 dated 11.03.2022 and No. F.13(24)-PD/15 (Part)(L)/2869 dated 12.09.2022 of Home Department, hereby extends the powers and jurisdiction of the members of the Delhi Special Police Establishment to the whole State of Tripura for investigation into the offences(s) relating to cases mentioned in the following table and any attempt, abetment and/or conspiracy, in relation to or in connection with such offences(s) and/or for any other offence committed in the course of the same transaction or arising out of the same facts :-

TABLE

Sl. No.	Case No., Section of Law & Police Station
1	Kumarghat PS Case No. 27/2013 dated 21.03.2013, under sections 420, 406 and 34 of the Indian Penal Code (45 of 1860)
2	Teliamura PS Case No. 105/2012 dated 24.08.2012, under section 420 of the Indian Penal Code (45 of 1860)
3	East Agartala PS Case No. 190/2014 dated 29.10.2014, under sections 406 and 420 of the Indian Penal Code (45 of 1860)
4	West Agartala PS Case No. 76/2012 dated 03.04.2012, under sections 420, 506, 323 and 34 of the Indian Penal Code (45 of 1860)
5	East Agartala PS Case No. 83/ 2013 dated 09.05.2013, under sections 405, 406, 409, 415, 417, 420, 120B and 34 of the Indian Penal Code (45 of 1860)
6	West Agartala PS Case No. 150/ 2013 dated 24.05.2013, under sections 420, 406 and 34 of the Indian Penal Code (45 of 1860) and section 3 of the TPID Act, 2011
7	Belonia PS Case No. 241/2014 dated 10.10.2014, under sections 406, 405 and 420 of the Indian Penal Code (45 of 1860) and section 3 of the TPID Act, 2011
8	R.K.Pur PS Case No. 177/ 2013 dated 11.05.2013, under sections 406, 409 and 420 of the Indian Penal Code (45 of 1860)
9	Jirania PS Case No. 77/2012 dated 24.09.2012, under sections 420, 406 and 120 B of the Indian Penal Code (45 of 1860)
10	Dharmanagar PS Case No. 98/2013 dated 25.05.2013, under sections 420, 506 and 34 of the Indian Penal Code (45 of 1860) and added section 3 of the TPID Act, 2011
11	Kanchanpur PS Case No. 49/ 2013 dated 23.05.2013, under sections 420 and 409 of the Indian Penal Code (45 of 1860)
12	Belonia PS case No. 272/2014 dated 16.12.2014, under sections 406 and 420 of the Indian Penal Code (45 of 1860) and added section 3 of the TPID Act, 2011 and sections 120 B and 34 of the Indian Penal Code (45 of 1860)
13	Sonamura PS Case No. 91/2014 dated 22/05/2014, under sections 406 and 420 of the Indian Penal Code (45 of 1860) and section 3 of the TPID Act, 2011
14	Khowai PS Case No. 48/2012 dated 01.06.2012, under section 420 of the Indian Penal Code (45 of 1860)
15	Khowai PS Case No. 59/2012 dated 07.07.2012, under sections 420, 403, 406 and 34 of the Indian Penal Code (45 of 1860)
16	Bishalgarh PS case No. 108/ 2012 dated 08.06.2012, under sections 406 and 420 of the Indian Penal Code (45 of 1860)
17	Ompi PS Case No. 22/ 2013 dated 30.08.2013, under sections 406 and 420 of Indian Penal Code (45 of 1860)
18	West Agartala PS Case No. 154/ 2013 dated 30.05.2013, under sections 420, 406 and 34 of the Indian Penal Code (45 of 1860) and section 3 of the TPID Act, 2011
19	Sabroom PS Case No. 46/2013 dated 15.05.2013, under sections 420 and 406 of the Indian Penal Code (45 of 1860)
20	Kamalpur PS Case No. 57/2013 dated 28.06.2013, under sections 420, 406 and 34 of the Indian Penal Code (45 of 1860) and added section 3 of the TPID Act, 2011
21	Teliamura PS case No. 51/2013 dated 16.05.2013, under section 420 of the Indian Penal Code (45 of 1860)
22	West Agartala PS Case No.138/2013 dated 13.05.2013, under sections 420, 406 and 34 of the Indian Penal Code (45 of 1860) and section 3 of the TPID Act, 2011
23	West Agartala PS Case No. 207/ 2013 dated 20.07.2013, under sections 420, 406 and 34 of the Indian Penal Code (45 of 1860) and section 3 of the TPID Act, 2011
24	Dharmangar PS Case No. 143/ 2011 dated 05.10.2011, under sections 420, 406 and 34 of the Indian Penal Code (45 of 1860)
25	Sonamura PS Case No. 92/2014 dated 22.05.2014, under sections 406 and 420 of the Indian Penal Code (45 of 1860) and section 3 of the TPID Act, 2011

26	West Agartala PS Case No. 180/2013 dated 25.06.2013, under sections 420, 406, 34 and 506 of the Indian Penal Code (45 of 1860) and section 3 of the TPID Act, 2011
27	West Agartala PS Case No. 127/2013 dated 07.05.2013, under sections 420, 406 and 34 of the Indian Penal Code (45 of 1860) and section 3 of the TPID Act, 2011
28	West Agartala PS Case No. 44/2013 dated 25.02.2013, under section 420 of the Indian Penal Code (45 of 1860)
29	East Agartala PS Case No. 109/ 2013 dated 26.06.2013, under sections 420, 406 and 34 of the Indian Penal Code (45 of 1860) and section 3 of the TPID Act, 2011
30	Dharmanagar PS Case No. 30/2010 dated 04.03.2010, under sections 420 and 34 of the Indian Penal Code (45 of 1860)
31	Dharmanagar PS Case No. 102/2011 dated 08.07.2011, under sections 420, 406 and 34 of the Indian Penal Code (45 of 1860)
32	Kailashahar PS Case No. 178/2011 dated 04.12.2011, under sections 406, 420 and 34 of the Indian Penal Code (45 of 1860)
33	West Agartala PS Case No. 128/2013 dated 08.05.2013, under sections 420, 406 and 34 of the Indian Penal Code (45 of 1860) and section 3 of the TPID Act, 2011
34	West Agartala PS Case No. 130/2013 dated 09.05.2013, under sections 420, 406 and 34 of the Indian Penal Code (45 of 1860) and section 3 of the TPID Act, 2011

[F. No. 228/13/2018-AVD-II(Vol.II)/2]

SANJAY KUMAR CHAURASIA, Under Secy.

नई दिल्ली, 2 मई, 2023

का.आ. 939.— केन्द्र सरकार, एतदद्वारा दिल्ली विशेष पुलिस स्थापना अधिनियम, 1946 (1946 का 25) की धारा 5 की उप-धारा (1) सपठित धारा 6 द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए झारखंड राज्य सरकार, गृह, कारागार एवं आपदा प्रबंधन विभाग, रांची की अधिसूचना सं.-10/सी.बी.आई.- 403/2023-942, दिनांक 28.02.2023, के माध्यम से जारी सम्मति से, श्री रत्नाकर मल्लिक, वरिष्ठ प्रबंधक कार्मिक, ब्लॉक-II एरिया, बीसीसीएल, धनबाद के विरुद्ध श्री सत्येंद्र कुमार सिन्हा, पुत्र श्री दिलिप कुमार, लिपिक, वित्त विभाग, ब्लॉक-II, एरिया ए.व्ही.ओ.सी.पी., बाघमारा, बीसीसीएल, धनबाद द्वारा भ्रष्टाचार निवारण अधिनियम, 1988 (1988 का 49) (2018 के अधिनियम 16 द्वारा यथासंशोधित) की धारा 7 के तहत दण्डनीय अपराध(धों) के संबंध में दिनांक 21.02.2023 को दर्ज करायी गई शिकायत, जिसके आधार पर दिनांक 01.03.2023 को एक सीबीआई मामला आरसी.2(ए)/2023-डी दर्ज किया गया है, से उत्पन्न अपराध(धों) का अन्वेषण और इससे जुड़े या उससे संबद्ध किसी दुष्प्रयास, दुष्प्रेरणा और/अथवा षड्यंत्र या उन्हीं तथ्यों से उत्पन्न किसी अन्य अपराध का अन्वेषण करने के लिए दिल्ली विशेष पुलिस स्थापना के सदस्यों की शक्तियों और क्षेत्राधिकार का विस्तार (कार्योत्तर प्रभाव से दिनांक 01.03.2023 से) समस्त झारखंड राज्य में करती है।

[फा. सं. 228/21/2023-एवीडी-II]

संजय कुमार चौरसिया, अवर सचिव

New Delhi, the 2nd May, 2023

S.O. 939.—In exercise of the powers conferred by sub-section (1) of section 5 read with section 6 of the Delhi Special Police Establishment Act, 1946 (25 of 1946), the Central Government with the consent of the State Government of Jharkhand, issued vide Notification No.10/C.B.I.-403/2023-942 dated 28.02.2023, Home, Prisons and Disaster Management Department, Ranchi, hereby extends the powers and jurisdiction of the members of the Delhi Special Police Establishment (ex post facto w.e.f. 01.03.2023) to the whole State of Jharkhand for investigation into the offence(s) arising out of the complaint dated 21.02.2023 lodged by Shri Satyendra Kumar Sinha, S/o Shri Dilip Kumar, Clerk, Finance Department, Block-II, Area A.V.O.C.P., Baghmara, BCCL, Dhanbad against Shri Ratnakar Mallick, Sr. Manager Personnel, Block-II Area, BCCL, Dhanbad under section 7 of the Prevention of Corruption Act, 1988 (49 of 1988) (as amended by Act 16 of 2018), based on which a CBI case RC.2(A)/2023-D has been registered on 01.03.2023 and any attempt, abetment and/or conspiracy, in relation to or in connection with such offence(s) and/or for any other offence committed in the course of the same transaction or arising out of the same facts.

[F. No. 228/21/2023-AVD-II]

SANJAY KUMAR CHAURASIA, Under Secy.

नई दिल्ली, 17 मई, 2023

का.आ. 940.—केन्द्र सरकार, एतदद्वारा दिल्ली विशेष पुलिस स्थापना अधिनियम, 1946 (1946 का 25) की धारा 5 की उप-धारा (1) सपठित धारा 6 द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए झारखंड राज्य सरकार, गृह, कारागार एवं आपदा प्रबंधन विभाग, रांची की अधिसूचना सं.-10/सी.बी.आई.- 404/2023-1237, दिनांक 15.03.2023, के माध्यम से जारी सम्मति से, श्री भीम बौरी, गार्ड, 20/21 पिट्स कोल्लियरी, मुरलीडिह, बीसीसीएल, धनबाद (बीसीसीएल, धनबाद के वर्ग-IV अधिकारी) एवं अन्य अज्ञात व्यक्तियों के विरुद्ध (1) श्री रबी लाल हंसदा, पुत्र स्वर्गीय लुखु हंसदा, 20/21 पिट्स के अवकाश प्राप्त फोरमैन, मुरलीडिह, मुनीडिह, बीसीसीएल, धनबाद और (2) श्री विजय टुडु पुत्र श्री सोना टुडु, निजी व्यक्ति द्वारा भारतीय दण्ड संहिता (1860 का 45) की धारा 120-बी और भ्रष्टाचार निवारण अधिनियम, 1988 (1988 का 49) (2018 के अधिनियम 16 द्वारा यथासंशोधित) की धारा 7 के तहत दण्डनीय अपराध(धों) के संबंध में दिनांक 02.03.2023 को दर्ज करायी गई शिकायत, जिसके आधार पर दिनांक 16.03.2023 को एक सीबीआई मामला आरसी03(ए)/2023-डी दर्ज किया गया है, से उत्पन्न अपराध(धों) का अन्वेषण और इससे जुड़े या उससे संबद्ध किसी दुष्प्रयास, दुष्प्रेरणा और/अथवा षड्यंत्र या उन्हीं तथ्यों से उत्पन्न किसी अन्य अपराध का अन्वेषण करने के लिए दिल्ली विशेष पुलिस स्थापना के सदस्यों की शक्तियों और क्षेत्राधिकार का विस्तार (कार्योत्तर प्रभाव से दिनांक 16.03.2023 से) समस्त झारखंड राज्य में करती है।

[फा. सं. 228/22/2023-एवीडी-II]

संजय कुमार चौरसिया, अवर सचिव

New Delhi, the 17th May, 2023

S.O. 940.—In exercise of the powers conferred by sub-section (1) of section 5 read with section 6 of the Delhi Special Police Establishment Act, 1946 (25 of 1946), the Central Government with the consent of the State Government of Jharkhand, issued vide Notification No.- 10/C.B.I.-404/2023-1237 dated 15.03.2023, Home, Prisons and Disaster Management Department, Ranchi, hereby extends the powers and jurisdiction of the members of the Delhi Special Police Establishment (ex post facto w.e.f. 16.03.2023) to the whole State of Jharkhand for investigation into the offence(s) arising out of the complaint dated 02.03.2023 lodged by (1) Shri Rabi Lal Hansda, S/o Late Lukhu Hansda, Retired Foreman in 20/21 Pits, Murlidih, Moonidih, BCCL, Dhanbad and (2) Shri Vijay Tudu, S/o Shri Sona Tudu, Pvt. Person against Shri Bhim Bauri, Guard, 20/21 Pits Colliery, Murlidih, BCCL, Dhanbad (Class-IV officer of BCCL, Dhanbad) and unknown others under section 120-B of the Indian Penal Code (45 of 1860) and section 7 of the Prevention of Corruption Act, 1988 (49 of 1988) (as amended by Act 16 of 2018), based on which a CBI case RC03(A)/2023-D has been registered on 16.03.2023 and any attempt, abetment and/or conspiracy, in relation to or in connection with such offence(s) and/or for any other offence committed in the course of the same transaction or arising out of the same facts.

[F. No. 228/22/2023-AVD-II]

SANJAY KUMAR CHAURASIA, Under Secy.

नई दिल्ली, 8 जून, 2023

का.आ. 941.—केन्द्र सरकार, एतदद्वारा दिल्ली विशेष पुलिस स्थापना अधिनियम, 1946 (1946 का 25) की धारा 5 की उप-धारा (1) सपठित धारा 6 द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए मणिपुर राज्य सरकार, गृह विभाग, इम्फाल की अधिसूचना सं.12/1(4)/2023-एच(सी.बी.आई.), दिनांक 02.06.2023, के माध्यम से जारी सम्मति से, राज्य में हालिया हिंसा से जुड़े निम्नलिखित 06 (छः) एफ.आई.आर. का अन्वेषण और इनसे जुड़े या उससे संबद्ध किसी दुष्प्रयास, दुष्प्रेरणा और/अथवा षड्यंत्र या उन्हीं तथ्यों से उत्पन्न किसी अन्य अपराध का अन्वेषण करने के लिए दिल्ली विशेष पुलिस स्थापना के सदस्यों की शक्तियों और क्षेत्राधिकार का विस्तार समस्त मणिपुर राज्य में करती हैः-

(i) सीआईडी अपराध शाखा थाना में भारतीय दंड संहिता की धाराएं 120-बी/ 143/ 147/ 148/ 302/ 392/ 435/ 436/447/448/449/34; आयुध अधिनियम की धारा 25 & यूए(पी) अधिनियम की धारा 16 के अंतर्गत दर्ज एफ.आई.आर. सं. 2(05)2023 सीबी-पीएस;

(ii) हिंगांग थाना में भारतीय दंड संहिता की धाराएं 145/147/149/151/395/447/456/457/458/ 34 & 25 आयुध अधिनियम के अंतर्गत दर्ज एफ.आई.आर. सं. 54(05)2023 एचएनजी पीएस;

(iii) चुराचांदपुर थाना में भारतीय दंड संहिता की धाराएं 143/148/427/395, पीडीपीपी अधिनियम की धारा 3 के अंतर्गत दर्ज एफ.आई.आर. सं. 89(05)2023 सीसीपी-पीएस;

(iv) इम्फाल थाना में भारतीय दंड संहिता की धाराएं 148/188/302/34 सपठित यूए(पी) अधिनियम की धारा 16 & भारतीय दंड संहिता की धारा 120-बी के अंतर्गत दर्ज एफ.आई.आर. सं. 137(05)2023 आईपीएस;

(v) लमसांग थाना में भारतीय दंड संहिता की धाराएं 326/307/302/506/400 & आयुध अधिनियम की धारा 25 (1-बी), यूए(पी) अधिनियम की धारा 16 के अंतर्गत दर्ज एफ.आई.आर. सं. 532(05)2023 एलएसजी-पीएस; और

(vi) फौगकचाओ इखाई थाना में भारतीय दंड संहिता की धाराएं 143/148/188/506/504/436/332/34 के अंतर्गत दर्ज एफ.आई.आर. सं. 7(05)2023 पीजीसीआई-पीएस।

[फा. सं. 228/35/2023-एवीडी-II]

संजय कुमार चौरसिया, अवर सचिव

New Delhi, the 8th June, 2023

S.O. 941.—In exercise of the powers conferred by sub-section (1) of section 5 read with section 6 of the Delhi Special Police Establishment Act, 1946 (25 of 1946), the Central Government with the consent of the State Government of Manipur, issued vide Notification No. 12/1(4)/2023-H(CBI) dated 02.06.2023, Home Department, Imphal, hereby extends the powers and jurisdiction of the members of the Delhi Special Police Establishment to the whole State of Manipur for investigation of following 06 (six) FIRs in connection with recent violence in the State:-

(i) **FIR No. 2(05)2023** CB-PS U/s 120-B/143/147/148/302/392/435/436/447/448/449/34 IPC; 25 Arms Act & 16 UA(P) Act registered at CID Crime Branch Police Station;

(ii) **FIR No. 54(05)2023** HNG PS U/s 145/147/149/151/395/447/456/457/458/34 IPC & 25 Arms Act registered at Heingang Police Station;

(iii) **FIR No. 89(05)2023** CCP-PS U/s 143/148/427/395 IPC, 3 of PDPP Act registered at Churachandpur Police Station;

(iv) **FIR No. 137(05)2023** IPS U/s 148/188/302/34 IPC r/w 16 UA(P) Act & 120-B IPC registered at Imphal Police Station;

(v) **FIR No. 532(05)2023** LSG PS U/s 326/307/302/506/400 IPC & 25 (1-B) Arms Act, 16 UA(P) Act registered at Lamsang Police Station; and

(vi) **FIR No. 7(05)2023** PGCI-PS U/s 143/148/188/506/504/436/332/34 IPC registered at Phougakchao Ikhai Police Station

and any attempt, abetment and/or conspiracy, in relation to or in connection with such offence(s) and/or for any other offence committed in the course of the same transaction or arising out of the same facts.

[F. No. 228/35/2023-AVD-II]

SANJAY KUMAR CHAURASIA, Under Secy.

वाणिज्य एवं उद्योग मंत्रालय

(वाणिज्य विभाग)

नई दिल्ली, 13 जून, 2023

का.आ. 942.—केन्द्रीय सरकार, निर्यात (गुणवत्ता नियंत्रण एंव निरीक्षण) नियम, 1964 के नियम 12, के उपनियम (2) के साथ पठित, निर्यात (गुणवत्ता नियंत्रण एंव निरीक्षण) अधिनियम, 1963 (1963 का 22) की धारा 7 की उपधारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, दिनांक 19 फ़रवरी 2022 को भारत के राजपत्र, भाग- II, खण्ड–3, उपखण्ड (ii) में प्रकाशित, का.आ. 196 दिनांक 31 जनवरी 2022, वाणिज्य एवं उद्योग मंत्रालय, भारत सरकार की अधिसूचना का अधिक्रमण करते हुए, इस अधिक्रमण से पूर्व किए गए अथवा, छोड़ दिए गए कार्यों को छोड़कर, केन्द्रीय सरकार मैसर्स मित्रा एस.के. प्राइवेट लिमिटेड, द्वार संख्या : 8-45-9/2/1, बी.सी विध्या नगर कॉलोनी, चौथी गली, निकट पुराने सी बी आई डाउन, विशाखापट्नम, आंध्र प्रदेश- 530003 (जिसे एतद्पश्चात उक्त अभिकरण कहा जाएगा), दिनांक

30 जनवरी 2025 तक की अवधि के लिए भारत सरकार के वाणिज्य मंत्रालय की शासकीय राजपत्र में प्रकाशित, दिनांक 20 दिसम्बर, 1965 की अधिसूचना सं॰ का.आ. 3975 तथा दिनांक 20 दिसम्बर, 1965 की अधिसूचना सं॰ का.आ. 3978 के तहत प्रकाशित अधिसूचना में उपाबद्ध अनुसूची में विनिर्दिष्ट खनिज और अयस्क – समूह 1, अर्थात, लौह अयस्क, मैंगनीज अयस्क, फेरोमैंगनीज तथा बाक्साइट; और खनिज और अयस्क – समूह 2, अर्थात, क्रोम कंसन्ट्रेट सहित क्रोम अयस्क, के निर्यात से पूर्व निम्नलिखित शर्तों के अधीन विशाखापट्नम पत्तन, गंगावरम पत्तन, काकीनाडा पत्तन एवं कृष्णापट्टनम पत्तन में उक्त खनिज और अयस्क के निरीक्षण करने के लिए एक अभिकरण के रुप में मान्यता देती है, अर्थात् :

(i) यह अभिकरण, खनिज और अयस्क समूह-। का निर्यात (निरीक्षण) नियम, 1965 तथा खनिज और अयस्क समूह-।। का निर्यात (निरीक्षण) नियम, 1965 के नियम 4 के अधीन निरीक्षण की पद्धति की जाँच करने के लिये निर्यात निरीक्षण परिषद् द्वारा निमित्त अधिकारियों को पर्याप्त सहयोग और सहायता प्रदान करेगी; और

(ii) यह अभिकरण, इस अधिसूचना में निर्दिष्टानुसार इसके कार्यो के निष्पादन के लिए निदेशक (निरीक्षण और गुणवत्ता नियंत्रण), निर्यात निरीक्षण परिषद द्वारा समय-समय पर, लिखित रूप में, दिए गए निर्देशों से आबद्ध होंगी ।

[फा. सं. के-16014/18/2021-निर्यात निरीक्षण]

एम. बालाजी, संयुक्त सचिव

MINISTRY OF COMMERCE AND INDUSTRY

(Department of Commerce)

New Delhi, the 13th June, 2023

S.O. 942.—In exercise of the powers conferred by the sub-section (1) of section 7 of the Export (Quality Control and Inspection) Act, 1963 (22 of 1963), read with sub-rule (2) of rule 12 of the Export (Quality Control and Inspection) Rules, 1964, and in supersession of the notification of the Government of India in the Ministry of Commerce and Industry, number S.O. 196, dated 31st January, 2022, published in the Gazette of India, Part-II, Section 3, sub section (ii), dated the 19th February, 2022, except as respects things done or omitted to be done before such supersession, the Central Government now recognizes M/s Mitra S.K. Private Limited, Door no. 8-45-9/2/1/B, C Vidyanagar Colony, 4th Lane, Near Old CBI Down, Visakhapatnam, Andhra pradesh- 530003, as an agency (hereinafter referred to as the said agency) for a period up to the 30th January, 2025, for inspection of Minerals and Ores - Group I, namely, Iron Ore, Manganese Ore, Ferromanganese and Bauxite; and Minerals and Ores - Group II, namely, Chrome Ore including Chrome Concentrate as specified in the Schedule annexed to the notification of the Government of India in the Ministry of Commerce, published in the Official Gazette *vide* number S.O. 3975 dated the 20th December, 1965 and S.O. 3978 dated the 20th December, 1965 respectively, before export of the said Minerals and Ores at Visakhapatnam Port, Gangavaram Port, Kakinada Port and Krishnapatnam port subject to the following conditions, namely: -

(i) the said agency shall extend adequate cooperation and assistance to the officers nominated by the Export Inspection Council in this behalf to carry out the inspection specified under rule 4 of the Export of Minerals and Ores - Group I (Inspection) Rules, 1965 and Export of Minerals and Ores - Group II (Inspection) Rules, 1965; and

(ii) the said agency shall, in performance of its function as specified in this notification shall be bound by such directions, as the Director (Inspection and Quality Control), Export Inspection Council, may give in writing from time to time.

[F. No. K-16014/18/2021 - Export Inspection]

M. BALAJI, Jt. Secy.

नागर विमानन मंत्रालय

नई दिल्ली, 13 जून, 2023

का.आ. 943.—केन्द्रीय सरकार, राजभाषा (संघ के शासकीय प्रयोजनों के लिए प्रयोग), नियम, 1976 के नियम-10 के उप-नियम (4) के अनुसरण में, नागर विमानन मंत्रालय के अंतर्गत, भारतीय विमानपत्तन प्राधिकरण के निम्नलिखित कार्यालयों, जिनमें 80 प्रतिशत कार्मिकों ने हिंदी का कार्यसाधक ज्ञान प्राप्त कर लिया है, को एतद्वारा अधिसूचित करती है।

1 विमानपत्तन निदेशक का कार्यालय, भारतीय विमानपत्तन प्राधिकरण, चेन्नई अंतरराष्ट्रीय हवाई अड्डा, चेन्नई (तमिलनाडू)

2 विमानपत्तन निदेशक का कार्यालय, भारतीय विमानपत्तन प्राधिकरण, इंफाल हवाई अड्डा, इंफाल (मणिपुर)

3 विमानपत्तन निदेशक का कार्यालय, भारतीय विमानपत्तन प्राधिकरण, दीमापुर हवाई अड्डा, दीमापुर (नागालैंड)

4 विमानपत्तन निदेशक का कार्यालय, भारतीय विमानपत्तन प्राधिकरण, जोरहाट हवाई अड्डा, जोरहाट (असम)

5 विमानपत्तन निदेशक का कार्यालय, भारतीय विमानपत्तन प्राधिकरण, लीलाबारी हवाई अड्डा, उत्तर लखिमपुर (असम)

6 विमानपत्तन निदेशक का कार्यालय, भारतीय विमानपत्तन प्राधिकरण, लेंगपुई हवाई अड्डा, आईजोल मिजोरम)

7 विमानपत्तन निदेशक का कार्यालय, भारतीय विमानपत्तन प्राधिकरण, रूपसी हवाई अड्डा, कोकराझार (असम)

8 विमानपत्तन निदेशक का कार्यालय, भारतीय विमानपत्तन प्राधिकरण, तेजू हवाई अड्डा, तेजू (अरूणाचल प्रदेश)

[फा. सं. ई. 11014/9/2015-रा.भा.]

पीयूष श्रीवास्तव, वरिष्ठ आर्थिक सलाहकार एवं अपर सचिव

MINISTRY OF CIVIL AVIATION

New Delhi, the 13th June, 2023

S.O. 943.—In pursuance of Sub-Rule (4) of Rule 10 of the Official Languages (Use for the Official Purposes of the Union) Rules, 1976, the Central Government, hereby notifies the following Offices of the Airports Authority of India, under Ministry of Civil Aviation , whereof 80% staff have acquired the working knowledge of Hindi.

1 Office of the Airport Director, Airports Authority of India, Chennai International Airport, Chennai (Tamil Nadu)

2 Office of the Airport Director, Airports Authority of India, Imphal Airport, Imphal (Manipur)

3 Office of the Airport Director, Airports Authority of India, Dimapur Airport, Dimapur (Nagaland)

4 Office Of The Airport Director, Airports Authority Of India, Jorhat Airport, Jorhat (Assam)

5 Office Of The Airport Director, Airports Authority Of India, Lilabari Airport, North Lakhimpur (Assam)

6 Office of the Airport Director, Airports Authority of India, Lengpui Airport, Aizawl (Mizoram)

7 Office Of The Airport Director, Airports Authority Of India, Rupsi Airport, Kokrajhar (Assam)

8 Office of the Airport Director, Airports Authority of India, Tezu Airport, Tezu (Arunachal Pradesh)

[F. No. E-11014/9/2015-OL]

PIYUSH SRIVASTAVA, Senior Economic Advisor & Addl. Secy.

श्रम और रोजगार मंत्रालय

नई दिल्ली, 31 मई, 2023

का.आ. 944.—औद्योगिक विवाद अधिनियम, 1 947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार ई.सी.एल. के प्रबंधतंत्र के संबद्ध नियोजको और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण–सह–श्रम न्यायालय, आसनसोल के पंचाट (संदर्भ संख्या 15/2013) को प्रकाशित करती है, जो केन्द्रीय सरकार को 30.05.2023 को प्राप्त हुआ था।

[सं. एल- 22012/125/2013- आई आर (सी. एम-II)]

मणिकंदन. एन, उप निदेशक

MINISTRY OF LABOUR AND EMPLOYEMENT

New Delhi, the 31st May, 2023

S.O. 944.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 15/2013*)* of the Central Government Industrial Tribunal-cum-Labour Court, Asansol as shown in the Annexure, in the industrial dispute between the Management of E.C.L. and their workmen, received by the Central Government on 30*/05/2023*

[No. L-22012/125/2013 -IR(CM-II)]

MANIKANDAN. N, Dy. Director

ANNEXURE

BEFORE THE CENTRAL GOVT. INDUSTRIAL TRIBUNAL -CUM- LABOUR COURT, ASANSOL.

PRESENT: Shri ANANDA KUMAR MUKHERJEE, Presiding Officer C.G.I.T-cum-L.C., Asansol.

REFERENCE CASE NO. 15 OF 2013

PARTIES: Kamal Deo Turi

Vs.

Management of Victoria West Colliery of M/s. BCCL

REPRESENTATIVES:

For the Union/Workman: None.

For the Management: Mr. P. K. Das, learned advocate.

INDUSTRY: Coal.

STATE: West Bengal.

Dated: 28.04.2023

AWARD

In exercise of powers conferred under clause (d) of Sub-section (1) and Sub-section (2A) of Section 10 of the Industrial Disputes Act, 1947 (14 of 1947), Govt. of India through the Ministry of Labour, vide its Order **No. L-22012/125/2013-IR(CM-II)** dated 18.09.2013 has been pleased to refer the following dispute between the employer, that is the Management of Victoria West Colliery of M/s. Bharat Coking Coal Limited and their workman for adjudication by this Tribunal.

SCHEDULE

"Whether the action of the management to dismiss from service to Sri Kamal Deo Turi, Ex-Tyndel. Victoria West Colliery is fair, proper, justified and proportionate punishment for absence from duty. If not so what relief management can provide him? "

1. On receiving Order **No. L-22012/125/2013-IR(CM-II)** dated 18.09.2013 from the Govt. of India, Ministry of Labour, New Delhi for adjudication of the dispute, a **Reference case No. 15 of 2013** was registered on 14.02.2014 and an order was passed issuing notice to the parties through registered post, directing them to appear and submit their written statements along with relevant documents in support of their claims and a list of witnesses. Both parties appeared before the Tribunal through their authorized representatives.

2. Mr. P. K. Das, learned advocate for the Management of M/s. Bharat Coking Coal Limited is present. The case is fixed up today for appearance of the workman, Kamal Deo Turi, his representation by advocate or union and cross-examination of the witness. On a perusal of the record, it appears that Notice was sent to Mr. S. K. Pandey, General Secretary, Colliery Mazdoor Congress. Written statement was filed by Mr. S. K. Pandey, on 07.01.2016. However, Mr. Gaya Prasad Mal, learned advocate representing Kamal Deo Turi filed Affidavit-in-chief on 14.12.2016. The workman failed to turn up for his cross-examination. Record reveals that as per direction of this Tribunal fresh Notice was issued to Kamal Deo Turi under registered Post at his address mentioned in his affidavit-in-chief but the workman failed to turn up. Ample opportunity has been provided to the workman to proceed with the case since 2013.

3. The Management of M/s. Bharat Coking Coal Limited also filed the written statement through Mr. P. K. Das, learned advocate. No evidence has been adduced by the parties in this case. Under such circumstances it is presumed that the workman, Kamal Deo Turi is not inclined to proceed further with the case. Considered. The Reference case is accordingly disposed of in the form of a **No Dispute Award**.

Hence,

ORDERED

that a **No Dispute Award** be drawn up in respect of the above Reference. Let copies of the Award in duplicate be sent to the Ministry of Labour and Employment, Government of India, New Delhi for information and Notification.

ANANDA KUMAR MUKHERJEE, Presiding Officer

नई दिल्ली, 31 मई, 2023

का.आ. 945.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार ई.सी.एल. के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण–सह–श्रम न्यायालय, आसनसोल के पंचाट (संदर्भ संख्या 27/2012) को प्रकाशित करती है, जो केन्द्रीय सरकार को 30.05.2023 को प्राप्त हुआ था।

[सं. एल- 22012/67/2012- आई आर (सी. एम-II)]

मणिकंदन. एन, उप निदेशक

New Delhi, the 31st May, 2023

S.O. 945.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 27/2012) of the Central Government Industrial Tribunal-cum-Labour Court, Asansol as shown in the Annexure, in the industrial dispute between the Management of E.C.L. and their workmen, received by the Central Government on 30/05/2023

[No. L-22012/67/2012 -IR(CM-II)]

MANIKANDAN. N, Dy. Director

ANNEXURE

BEFORE THE CENTRAL GOVT. INDUSTRIAL TRIBUNAL -CUM- LABOUR COURT, ASANSOL.

Present: Shri ANANDA KUMAR MUKHERJEE, Presiding Officer, C.G.I.T-cum-L.C., Asansol.

REFERENCE CASE NO. 27 OF 2012

PARTIES: Mahadeo Bhuia

Vs.

Management of J. K. Nagar Colliery of M/s. ECL

REPRESENTATIVES:

For the Union/Workman: Mahadeo Bhuia.

For the Management: Mr. P. K. Das, learned advocate.

INDUSTRY: Coal.

STATE: West Bengal.

Dated: 03.05.2023

AWARD

In exercise of powers conferred under clause (d) of Sub-section (1) and Sub-section (2A) of Section 10 of the Industrial Disputes Act, 1947 (14 of 1947), Government of India through the Ministry of Labour, vide its Order **No. L-22012/67/2012-IR(CM-II)** dated 18.05.2012 has been pleased to refer the following dispute between the employer, that is the Management of J. K. Nagar Colliery under Satgram Area of M/s. Eastern Coalfields Limited and their workman for adjudication by this Tribunal.

SCHEDULE

"Whether the action of the Management of J. K. Nagar Colliery of M/s. ECL in not payment HRA @ 10% of Basic Pay to Sri Mahadio Bhuiya is fair and justified? To what relief the concerned workman is entitled to? "

1. On receiving Order **No. L-22012/67/2012-IR(CM-II)** dated 18.05.2012 from the Govt. of India, Ministry of Labour, New Delhi for adjudication of the dispute, a **Reference case No. 27 of 2012** was registered on 25.06.2012 and an order was passed issuing notice to the parties through registered post, directing them to appear and submit their written statements along with relevant documents in support of their claims and a list of witnesses.

2. After laps of more than ten years Mr. P. K. Das, learned advocate appeared for M/s. Eastern Coalfields Limited and filed a written statement on behalf of Management of J. K. Nagar (R) Colliery, M/s. Eastern Coalfields Limited. According to the version of the Management of M/s. Eastern Coalfields Limited Mahadeo Bhuia is working as a Line Mazdoor at J. K. Nagar (R) Colliery under Satgram Area and he is residing in the company quarter bearing no. NHS/7/112 since his appointment. Electricity charges are deducted from his salary as per norms of the company. Therefore, he is not entitled to get Hour Rent Allowance (HRA).

3. Further case of M/s. Eastern Coalfields Limited is that according to the company Circular No. M/s. ECL/CMD/C-6/WBE-1/498 dated 28.06.2006 the employees who are residing in the company's accommodation shall not be granted/sanctioned House Rent Allowance even in the event of vacating of company's accommodation. In their written statement it has been disclosed that as per guidelines of the Company, employees working under J. K. Nagar (R) Colliery under Satgram Area of M/s. Eastern Coalfields Limited is entitled to House Rent Allowance @ 2% of stagnant basic on 01.07.2016. Therefore, the demand for 10% as House Rent Allowance is totally justified. Management of M/s. Eastern Coalfields Limited thereafter has prayed for rejecting the claims of the petitioner workman.

4. Mahadeo Bhuia was examined in this case as workman witness – 1. In his evidence-in-chief, on oath, the workman deposed that he is residing in his own house built on the land of M/s. Eastern Coalfields Limited. He further stated that he is not occupying any quarters allotted to him by the company but the employer company is deducting his House Rent Allowance. The witness further deposed that he did not raise any Industrial Dispute claiming House Rent Allowance through any union and has no grievance against the Management of M/s. Eastern Coalfields Limited. In course of cross-examination the witness deposed that his mother was an employee under M/s. Eastern Coalfields Limited and on her death, he got employed under M/s. Eastern Coalfields Limited as a dependent of his mother, in the year 1996. At the time of his mother's employment, she was residing at Central Satgram Colony. He also stated that there are other quarters in the vicinity of his residence. He also denied the suggestion that he is not entitled to any House Rent Allowance.

5. The Management of M/s. Eastern Coalfields Limited did not adduce any evidence in this case and relied upon a letter bearing No. ECL/CMD/C-6/WBE-1/498 dated 28.06.2006 issued by the Deputy (Chief) Personnel Manager (Estb./MP), addressed to the General Manager, Sodepur/Sripur/Satgram Areas and to the Agent, Sodepur Central Workshop relating to the payment of House Rent Allowance to non-executive employees. Copy of this letter has been marked as Annexure-1 to the written statement filed by M/s. Eastern Coalfields Limited. It appears from the communication dated 28.06.2006 (Annexure-1) that : *"the employees who are living in the company's accommodation shall not be granted/sanctioned House Rent Allowance even in the event of vacating of company's accommodation"*.

6. In the instant case the evidence of Mahadeo Bhuia (workman witness-1) gives out the facts that he is residing in a house built on the land of M/s. Eastern Coalfields Limited. He is also enjoying electricity supplied by M/s. Eastern Coalfields Limited for which charges are deducted from his salary. The evidence implies that the workman is residing in the premises of the company since the time of his mother, who was also an employee of M/s. Eastern Coalfields Limited.

7. From such facts and circumstances, I have no hesitation to hold that Mahadeo Bhuia is not entitled to any House Rent Allowance. In his evidence-in-chief, workman witness-1 has stated that he did not raise any Industrial Dispute against his Employer company, claiming House Rent Allowance through union and he has no grievance against the Management of M/s. Eastern Coalfields Limited. Harping upon such vital statement of the workman, I hold that the claim for House Rent Allowance of the workman as encapsulated in the Schedule of the Reference case is without any merit and the same is dismissed on contest.

Hence,

ORDERED

that the Reference case is dismissed on contest. An award be drawn up in the light of the above finding. Let copies of the Award in duplicate be communicated to the Ministry of Labour and Employment, Government of India for information and Notification.

ANANDA KUMAR MUKHERJEE, Presiding Officer

नई दिल्ली, 31 मई, 2023

का.आ. 946.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार ई.सी.एल. के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण–सह–श्रम न्यायालय, आसनसोल के पंचाट (संदर्भ संख्या 09/2019) को प्रकाशित करती है, जो केन्द्रीय सरकार को 30.05.2023 को प्राप्त हुआ था।

[सं. एल- 22012/11/2019- आई आर (सी. एम-II)]

मणिकंदन. एन, उप निदेशक

New Delhi, the 31st May, 2023

S.O. 946.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 09/2019) of the Central Government Industrial Tribunal-cum-Labour Court, Asansol as shown in the Annexure, in the industrial dispute between the Management of E.C.L. and their workmen, received by the Central Government on 30/05/2023

[No. L- 22012/11/2019 -IR(CM-II)]

MANIKANDAN. N, Dy. Director

ANNEXURE

BEFORE THE CENTRAL GOVT. INDUSTRIAL TRIBUNAL -CUM- LABOUR COURT, ASANSOL.

Present: Shri Ananda Kumar Mukherjee, Presiding Officer, C.G.I.T-cum-L.C., Asansol.

REFERENCE CASE NO. 09 OF 2019

Parties: Dependent son of Late Nago Bhuia

Vs.

Management of Shankarpur Colliery of M/s. ECL

REPRESENTATIVES:

For the Union/Workman: Mr. Rakesh Kumar, Union representative.
For the Management: Mr. P. K. Das, learned advocate.

INDUSTRY: Coal.
STATE: West Bengal.
Dated: 03.05.2023

AWARD

In exercise of powers conferred under clause (d) of Sub-section (1) and Sub-section (2A) of Section 10 of the Industrial Disputes Act, 1947 (14 of 1947), Govt. of India through the Ministry of Labour, vide its Order **No. L-22012/11/2019-IR(CM-II)** dated 06.02.2019 has been pleased to refer the following dispute between the employer, that is the Management of Shankarpur Colliery of M/s. Eastern Coalfields Limited and their workman for adjudication by this Tribunal.

SCHEDULE

"Whether the action of the Management, the Agent Shankarpur Colliery of Eastern Coalfields Ltd. P.O. Ukhra, in denying employment to the son of deceased workman Shri Nago Bhuia is fair and just? If not, what relief the dependents of the deceased are entitled? "

1. On receiving Order **No. L-22012/11/2019-IR(CM-II)** dated 06.02.2019 from the Govt. of India, Ministry of Labour, New Delhi for adjudication of the dispute, a **Reference case No. 09 of 2019** was registered on 18.02.2019 and an order was passed issuing notice to the parties through registered post, directing them to appear and submit their written statements along with relevant documents in support of their claims and a list of witnesses. Both parties appeared before the Tribunal through their authorized representatives.

2. Mr. P. K. Das, learned advocate for the Management of M/s. Eastern Coalfields Limited is present and filed his Vokalatnama. Mr. Rakesh Kumar, Union representative appeared on behalf of the son of the deceased workman, Nago Bhuia. After four years from registration of this case, no written statement has been filed by any of the parties.

It seems that parties are not diligent in proceeding with the case. Union representative could not produce the dependent of deceased employee, interested with employment.

3. On the perusal of record, it appears that after assuming charge of this Tribunal, on earlier occasion I passed an order on 02.01.2023 fixing the case for appearance and filing written statement with an observation that in default it would be presumed that there is no dispute,

4. On 17.03.2023, Mr. Rakesh Kumar, Union representative submitted that the dependents of deceased workman are in a very difficult situation and he may be given another opportunity for representing the case. For ends of justice, case has been fixed up today (i.e. 03.05.2023) for appearance and filing written statement. Till date there has been no communication and no step has been taken by the parties to canvass their case. Under such circumstance, I am of view that there is no cogent reasons for adjourning this case any further. The Industrial Dispute is therefore dismissed in form of **a No Dispute Award**.

Hence,

ORDERED

that **a No Dispute Award** be drawn up in respect of the above Reference case. Let copies of the Award in duplicate be sent to the Ministry of Labour and Employment, Government of India, New Delhi for information and Notification.

ANANDA KUMAR MUKHERJEE**,** Presiding Officer

नई दिल्ली, 31 मई, 2023

का.आ. 947.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार ई.सी.एल. के प्रबंधतंत्र के संबद्ध नियोजको और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण**–**सह–श्रम न्यायालय, आसनसोल के पंचाट (आवेदन संख्या 05/2018) को प्रकाशित करती है, जो केन्द्रीय सरकार को 30.05.2023 को प्राप्त हुआ था।

[सं. एल-22013/01/2023-आई आर (सी. एम-II)]

मणिकंदन. एन, उप निदेशक

New Delhi, the 31st May, 2023

S.O. 947.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (APPLICATION No. 05/2018*)* of the Central Government Industrial Tribunal-cum-Labour Court, Asansol as shown in the Annexure, in the industrial dispute between the Management of E.C.L. and their workmen, received by the Central Government on 30*/05/2023*

[No. L-22013/01/2023 -IR(CM-II)]

MANIKANDAN. N, Dy. Director

ANNEXURE

BEFORE THE CENTRAL GOVT. INDUSTRIAL TRIBUNAL-CUM- LABOUR COURT ASANSOL.

Present: Shri ANANDA KUMAR MUKHERJEE, Presiding Officer, C.G.I.T-cum-L.C., Asansol.

APPLICATION NO. 05 OF 2018

PARTIES: Kartick Turi.

Vs.

Management of Parascole (East) Colliery of M/s. M/s. ECL.

REPRESENTATIVES:

For the Union/Workman: Mr. Rakesh Kumar, President, Koyala Mazdoor Congress.
For the Management: Mr. P. K. Das, learned advocate.

INDUSTRY: Coal.
STATE: West Bengal.
Dated: 28.04.2023

AWARD

1. The Application under sub-section 2 and 3 of Section 2A of Industrial Dispute Act, 1947 is fixed up today for hearing on the point of its maintainability. Mr. Rakesh Kumar, Union representative has appeared for the petitioner Kartick Turi and Mr. P. K. Das, learned advocate appeared for the Management of M/s. Eastern Coalfields Limited.

2. The application has been filed directly before this Tribunal supported by a Certificate issued by Conciliation Officer under Section 2A of the Industrial Dispute Act, 1947 dated 04.07.2018, disclosing that Mr. Rakesh Kumar, President of Koyala Mazdoor Congress filed an Industrial Dispute under Section 2A of the Industrial Dispute (Amendment) Act, 2010 before the office of the Assistant Labour Commissioner (Central), Raniganj at Durgapur consequent upon the termination of Kartick Turi, Ex-Trammer from the services w.e.f. 07/12.12.2016 by the Management of Parascole (East) Colliery of Kajora Area, M/s. Eastern Coalfields Limited. As no settlement was be reached within the mandatory period of forty-five (45) days a Certificate was issued in favour of the Union for the purpose of inability to approach the Central Government Industrial Tribunal -cum- Labour Court for adjudication of the said dispute. In this application under Section 2A (2)(3) of Industrial Dispute Act, 1947 the applicant prayed for his reinstatement in service with full back wages and with all consequential benefits with effect from the date of his dismissal. Since filing of the application on 25.09.2018 case was fixed on several dates for hearing on the point of maintainability of the application but the union representative failed to produce Kartick Turi before the Tribunal on consecutive dates. Therefore, it appears that the alleged aggrieved person Kartick Turi is possibly not inclined to proceed. The union representative cannot stretch the proceeding at his behest without the aggrieved workman showing his face or interest. Under such circumstances I am constrain to dismiss the Application.

Hence,

ORDERED

The Application under sub-section 2 and 3 of section 2A of the Industrial Dispute Act, 1947 is dismissed. An Award be drawn up in light of the above decision. Let copies of the Award in duplicate be sent to the Ministry of Labour and Employment, Government of India, New Delhi for information and Notification.

ANANDA KUMAR MUKHERJEE, Presiding Officer

नई दिल्ली, 31 मई, 2023

का.आ. 948.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार ई.सी.एल. के प्रबंधतंत्र के संबद्ध नियोजको और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण–सह–श्रम न्यायालय, आसनसोल के पंचाट (संदर्भ सं. 153/1999) को प्रकाशित करती है, जो केन्द्रीय सरकार को 30.05.2023 को प्राप्त हुआ था।

[सं. एल- 22012/132/99- आई आर (सी. एम-II)]

मणिकंदन. एन, उप निदेशक

New Delhi, the 31st May, 2023

S.O. 948.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 153/1999) of the Central Government Industrial Tribunal-cum-Labour Court, Asansol as shown in the Annexure, in the industrial dispute between the Management of E.C.L. and their workmen, received by the Central Government on 30/05/2023

[No. L-22012/132/99 -IR(CM-II)]

MANIKANDAN. N, Dy. Director

ANNEXURE

BEFORE THE CENTRAL GOVT. INDUSTRIAL TRIBUNAL -CUM- LABOUR COURT, ASANSOL.

Present: Shri ANANDA KUMAR MUKHERJEE, Presiding Officer, C.G.I.T-cum-L.C., Asansol.

REFERENCE CASE NO. 153 OF 1999

PARTIES: Shri Subodh Singh

Vs.

Management of Kenda Colliery of Pandaveshwar Area of M/s. ECL

REPRESENTATIVES:

For the Union/Workman: Mr. S. K. Pandey, Union representative
For the Management: Mr. P. K. Goswami, learned advocate.

INDUSTRY: Coal.
STATE: West Bengal.
Dated: 19.04.2023

AWARD

In exercise of powers conferred under clause (d) of Sub-section (1) and Sub-section (2A) of Section 10 of the Industrial Disputes Act, 1947 (14 of 1947), Govt. of India through the Ministry of Labour, vide its Order **No. L-22012/132/99/IR(CM-II)** dated 31.08.1999 has been pleased to refer the following dispute between the employer, that is the Management of Kenda Colliery of Pandaveshwar Area of M/s. Eastern Coalfields Limited and their workman for adjudication by this Tribunal.

SCHEDULE

"Whether the action of the Management of Kenda Colliery of Pandaveshwar Area of M/s. ECL in not providing employment to the dependent of Sh. Subodh Singh, Tyndal as per the clause 9.4.0 of NCWA-V is legal and justifie If not, to what relief is dependent of the workman is entitled ?"

1. On receiving Order **No. L-22012/132/99/IR(CM-II)** dated 31.08.1999 from the Govt. of India, Ministry of Labour, New Delhi for adjudication of the dispute, a **Reference case No. 153 of 1999** was registered on 23.09.1999 and an order was passed issuing notice to the parties through registered post, directing them to appear and submit their written statements along with relevant documents etc. and list of witnesses.

2. Case is fixed up today for hearing of argument. Mr. P. K. Goswami, learned advocate appeared on behalf of the Management of Kenda Colliery and filed his Vokalatnama. On call none appears for the dependents of Subodh Singh, ex workman. This is a very old case pending since 1999, whereby dependents of deceased workman claimed employment as per provisions of clause 9.4.0 of NCWA-V.

3. On perusal of the record I find that initially Mr. S.K. Pandey, union representative had appeared on behalf of dependents and Mr. P.K. Goswami, learned advocate appeared on behalf of the Management. Mr. P. Banerjee, learned advocate had filed written statement on behalf of workman stating that the dependents of Subodh Singh are entitled to employment under provisions of NCWA-V but nowhere in the application the name of dependents of Subodh Singh has been disclosed.

4. The Management also filed a written statement in response to the Industrial Dispute referred for adjudication. In paragraph six it is disclosed that Subodh Singh was discharged from the hospital on 21.07.1995 after receiving full opportunities for treatment and subsequently he died on 24.07.1995. It is further disclosed that Subodh Singh had duly superannuated on 16.07.1995. Therefore, due to death after superannuation the dependent of such employee is not entitled to any employment.

5. Sanjukta Devi, wife of Late Subodh Singh in her affidavit-in-chief stated that on 04.11.1994 he was on duty and met with an accident due to hard landing of a descending cage at pit bottom of Ram Nagar No. 3 Pit. The accident was of serious nature and he was medically treated upto 21.07.1995 and was discharged from hospital though he was not fit. It is further stated that medical treatment of Subodh Singh continued at New Eveland Nursing Home until his death on 24.09.1995. A copy of death certificate issued by New Eveland Nursing Home has been submitted.

6. None has appeared on behalf of the dependents of deceased workman. Mr. P. K. Goswami, learned advocate for ECL argued that since Subodh Singh had superannuated from his service prior to his death, his dependents are not entitled to any employment for the injuries sustained by him during his employment. On close scrutiny of record, I

find that the injured workman died after his superannuation. It further appears that the dependents of the deceased employee did not approach the Employer company by filing any formal application disclosing the name of the dependent who was inclined to get an employment. Under such circumstances, I do not find any merit in this claim. The case is accordingly dismissed on contest.

Hence,

ORDERED

that the Industrial Dispute is dismissed against the dependent of ex-employee. Let a copy of this Award be sent to Ministry for information

ANANDA KUMAR MUKHERJEE, Presiding Officer

नई दिल्ली, 31 मई, 2023

का.आ. 949.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार ई.सी.एल. के प्रबंधतंत्र के संबद्ध नियोजको और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण–सह–श्रम न्यायालय, आसनसोल के पंचाट (संदर्भ सं. 16/2010) को प्रकाशित करती है, जो केन्द्रीय सरकार को 30.05.2023 को प्राप्त हुआ था।

[सं. एल-22012/3/2010-आई आर (सी. एम-II)]

मणिकंदन. एन, उप निदेशक

New Delhi, the 31st May, 2023

S.O. 949.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 16/2010) of the Central Government Industrial Tribunal-cum-Labour Court, Asansol as shown in the Annexure, in the industrial dispute between the Management of E.C.L. and their workmen, received by the Central Government on 30/05/2023

[No. L- 22012/3/2010 -IR(CM-II)]

MANIKANDAN. N, Dy. Director

ANNEXURE

BEFORE THE CENTRAL GOVT. INDUSTRIAL TRIBUNAL -CUM- LABOUR COURT, ASANSOL.

Present: Shri ANANDA KUMAR MUKHERJEE, Presiding Officer, C.G.I.T-cum-L.C., Asansol.

REFERENCE CASE NO. 16 OF 2010

PARTIES: Secretary, Colliery Mazdoor Union (INTUC)

Vs.

Management of Sodepur Area of M/s. ECL

REPRESENTATIVES:

For the Union/Workman: None
For the Management: Mr. P. K. Das, learned advocate.

INDUSTRY: Coal.
STATE: West Bengal.
Dated: 26.04.2023

AWARD

In exercise of powers conferred under clause (d) of Sub-section (1) and Sub-section (2A) of Section 10 of the Industrial Disputes Act, 1947 (14 of 1947), the Government of India through the Ministry of Labour, vide its Order **No. L-22012/3/2010-IR(CM-II)** dated 31.05.2010 has referred the following Industrial dispute between the employer, that is the Management of Sodepur Area of M/s. Eastern Coalfields Limited and their workman for adjudication by this Tribunal.

SCHEDULE

"Whether the demand of Unions for payment of HRA @ 15% HRA is legal and justified? To what relief are the claimants entitled for?"

1. On receiving Order **No. L-22012/3/2010-IR(CM-II)** dated 31.05.2010 from the Govt. of India, Ministry of Labour, New Delhi for adjudication of the dispute, a **Reference case No. 16 of 2010** was registered on 14.06.2010 and notices were issued to the General Manager of Sodepur Area of M/s. ECL & to the Secretary of Colliery Mazdoor Union (INTUC). Mr. Sanjoy Majee, the President of the union initially appeared and filed written statement. The contention of the union is that the Government of India by Notification No. 2/(43)/95-E-11(B)/Govt. of India dated 17th April, 1996, declared Asansol as urban area and as B-2 class city for the purpose of House rent allowance w.e.f. 31.01.1994. Furthermore, in the memorandum of Coal India Limited, bearing no. CIL/C-5-A (vi)/50727/252 dated 14th June, 2001 Asansol has been given the status of A-class city. According to the union, implementation of the directives in the notification dated 17.04.1996 is necessary. It is urged on behalf of the workmen that Coal India Limited has totally ignored the notification of Government of India by declaring Asansol as a 'C' class city. Therefore, the workers of M/s. ECL not having company accommodation at Asansol are being paid HRA at the rate of 10% of their basic pay instead of 15% applicable to B-2 class cities from 31.01.1994 to 31.12.2008 and at the rate of 20% applicable to Asansol as declared 'Y' class city from 01.01.2009.

2. It is contended that workmen as well as union submitted representation before the Management for securing 15% HRA and 20% HRA, but the Employer company has paid no heed. The matter was initially referred for conciliation. The Management was reluctant to settle the dispute amicably. As a result, the union has raised this dispute seeking immediate payment of arrear HRA at the rate of 5% less drawn from 31.01.1994 to 31.12.2008 and arrear of HRA at the rate of 10% less drawn from 01.01.2019 and also implementation of HRA at the rate of 20% to the employees not having company quarter.

3. The General Manager of Sodepur Area, ECL in his written statement contented that the case of the union is based on misrepresentation of facts relating to payment of House Rent Allowance to the employees. It is asserted that since inception of Coal India Limited, all pay and perquisites payable to the employees are based upon the provision of NCWA – I to IX. The employees are being paid their HRA as per guidelines of chapter VIII of NCWA – VIII and circulars issued from time to time. It is further stated that the workmen under M/s. ECL are getting 10% of their basic pay as HRA and the demand for payment of HRA at the rate of 20% is not legally maintainable and the claim of the union in this regard is absurd and baseless.

4. Further case of the Management is that domestic fuel coal or reimbursement of LPG in lieu of fuel coal is being provided to the workmen. Therefore, the workmen are not entitled to get HRA at the rate of 20%.

5. In support of their case, Sanjoy Majee, the union representative examined himself as WW-1. In his affidavit-in-chief, he has reiterated that Asansol has been declared as B-2 city with effect from 31.09.1994 but M/s. ECL as well as CIL have wrongly categorized Asansol as 'C' type city. The workmen having no company quarters in B-2 cities are therefore entitled to receive 15% of basic as House Rent Allowance whereas for 'C' category cities, the House Rent Allowance is 10%. It is further affirmed that no extra benefit is received by worker of M/s. ECL in the coalfield area. In course of cross-examination, WW-1 has stated that he is the office bearer of the union and also a workman. He stated that he can show the notification of Corporation that the area where the aggrieved workmen are working is a B-2 category city. He also denied the suggestion that Narsamuda Colliery is not within Asansol city. The witness refuted the suggestion that they are not entitled to 15% HRA or were entitled to only 10% HRA.

6. Several opportunities were granted to Management for adducing evidence in this case but no evidence is adduced. Mr. P.K. Das, learned advocate submitted that he would like to file a notification that Narsamuda Coliery was not included under Asansol Municipal Corporation. Therefore, the claim of the workmen that they are entitled to 15% HRA in respect of their place of work at Narsamuda Colliery is not maintainable.

7. The focal point of this dispute is whether the workmen of M/s. ECL residing within the area of Asansol Municipal Corporation are entitled to 10% of their basic as House Rent Allowance or they are entitled to receive HRA at the rate of 15 % of the basic pay. In Swamy's Annual 1996, paragraph 72 of part-B which relates to HRA it has been provided in M.F.,O.M. No. 2 (43)/95-E.II (B), dated 17.04.1996 that Asansol (WB) has been upgraded as 'B-2' class city for the purpose of House Rent Allowance from 31.01.1994. It has been stated therein that the President of India is, accordingly, pleased to decide that Asansol shall stand classified as 'B-2' class for the purpose of grant of House Rent Allowance to Central Government Employees posted at Asansol. The classification of Asansol as 'B-2' for City Compensatory Allowance already exists and that order shall take effect from 31.01.1994. According to National Coal Wage Agreement–VII Implementation Instruction dealing with House Rent Allowance for employees in Urban Areas (Paragraph 8.1.3 of NCWA-VII) it has been provided that B-2 Class Cities will be paid House Rent Allowance at the rate of 15% of their basic as per reclassification of cities by the Government. Therefore, this provision is binding upon the Management of ECL. I therefore hold that the employees of ECL working within the Municipal Corporation of Asansol who have not been provided with accommodation by the company are entitled to 15% of their basic pay as HRA subject to a maximum of Rs. 2286.30 with effect from 01.07.2004. The employees

who have been paid 10% of their basic pay as House Rent Allowance therefore shall be entitled to the less drawn amount of 5% of their basic pay. In the present case the provision of 8.1.3 of NCWA-VII will have binding effect upon the employer and employees, giving effect to the new rate of HRA from 01.07.2004.

8. Furthermore, in National Coal Wage Agreement–VIII Implementation Instruction No. 16 dated 22.07.2009, House Rent Allowance for employees in Urban Areas has been laid down in Paragraph 8.1.3 of NCWA-VIII. It was agreed that there would be no ceiling on basic pay for payment of House Rent Allowance in urban areas and the payment shall be subject to clarification from DPE regarding reclassification of cities. It was further provided that in terms of O.M No. 2(70)/08-DPE(WC)-GL-XVI/08 dated 26.11.2008 and OM No. 2(70)/08-DPE(WC)-GL-VII dated 02.04.2009 from Government of India, Ministry of Heavy Industries and Public Enterprises, payment of HRA to the employees of CPSE's on population basis would be 20% of basic pay for cities classified as 'Y'. The city of Asansol has been declared as 'Y' category city with effect from 29.08.2008. From the letter of Office Superintendent of Asansol Municipal Corporation, I find that Narsamuda Colliery is within the limits of Ward No. 57, Borough No.-VII of Asansol Municipal Corporation. It also appears that previously it was under Ward No. 50, Borough No.-VII.

9. Accordingly, the employees of M/s. ECL working within Municipal Area of Asansol and Narsamuda Colliery in particular who have not been provided with company accommodation are entitled to 20% of their basic pay as HRA with effect from 01.01.2009. It needs to be mentioned that as per National Coal Wage Agreement–VIII Implementation Instruction No. 16 dated 22.07.2009, no arrear shall be payable for the period from 01.07.2006 to 31.12.2009 on revised basic pay on account of HRA as per NCWA-VIII. Arrear of less drawn HRA @ 5% of Basic pay from 01.07.2004 till 31.12.2009 and less drawn HRA @ 10% of Basic pay from 01.01.2009 till date be paid to the employees of M/s. ECL working within Asansol Municipal Corporation area and who are not having company accommodation. The Industrial Dispute is disposed of in favour of workmen in the light of my above findings.

Hence,

ORDERED

The reference case is decided in favour of workmen/union. Let an Award be drawn in favour of workmen to the effect that House Rent Allowance at the rate of 15% of basic be paid to employees not provided with company's accommodation within the Municipal Area of Asansol with effect from 01.07.2004 subject to maximum of Rs. 2286.30 and House Rent Allowance at the rate of 20% of the basic with effect from 01.01.2009. The dues shall be paid to the employees less the amount already drawn towards the HRA, within three months from the date of notification of this Award. Let a copy of this Award be communicated to Ministry for information.

ANANDA KUMAR MUKHERJEE, Presiding Officer

नई दिल्ली, 31 मई, 2023

का.आ. 950.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार ई.सी.एल. के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण–सह–श्रम न्यायालय, आसनसोल के पंचाट (संदर्भ संख्या 52/2004) को प्रकाशित करती है, जो केन्द्रीय सरकार को 30.05.2023 को प्राप्त हुआ था।

[सं. एल-22012/363/2003-आई आर (सी. एम-II)]

मणिकंदन. एन, उप निदेशक

New Delhi, the 31st May, 2023

S.O. 950.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 52/2004) of the Central Government Industrial Tribunal-cum-Labour Court, Asansol as shown in the Annexure, in the industrial dispute between the Management of E.C.L. and their workmen, received by the Central Government on 30/05/2023

[No. L- 22012/363/2003-IR(CM-II)]

MANIKANDAN. N, Dy. Director

ANNEXURE

BEFORE THE CENTRAL GOVT. INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, ASANSOL

Present: Shri ANANDA KUMAR MUKHERJEE, Presiding Officer, C.G.I.T-cum-L.C., Asansol.

REFERENCE CASE NO. 52 OF 2004

PARTIES: Sunil Bouri

Vs.

Management of Gourandi-Begunia Colliery of M/s. ECL

REPRESENTATIVES:

For the Union/Workman: Mr. Rakesh Kumar, Koyala Mazdoor Congress.
For the Management: Mr. P. K. Goswami, learned advocate.

INDUSTRY: Coal.
STATE: West Bengal.
Dated: 31.03.2023

AWARD

In exercise of powers conferred under clause (d) of Sub-section (1) and Sub-section (2A) of Section 10 of the Industrial Disputes Act, 1947 (14 of 1947), Govt. of India through the Ministry of Labour, vide its Order **No. L-22012/363/2003-IR(CM-II)** dated 04.10.2004 has been pleased to refer the following dispute between the employer, that is the Management of Gourandi-Begunia Colliery of M/s. Eastern Coalfields Limited and their workman for adjudication by this Tribunal.

SCHEDULE

"Whether the action of the Management of Gourandih-Begunia Colliery of M/s. ECL in not providing employment to Shri Sunil Bouri, the dependent son of Late Pashupati Bouri, Haulage Khalasi, is legal and justified? If not, to what relief the concerned dependent is entitled and from which date? "

1. On receiving Order **No. L-22012/363/2003-IR(CM-II)** dated 04.10.2004 from the Govt. of India, Ministry of Labour, New Delhi for adjudication of the dispute, a **Reference case No. 52 of 2004** was registered on 14.10.2004 and an order was passed issuing notice to the parties through registered post, directing them to appear and submit their written statements along with relevant documents in support of their claims and a list of witnesses. Both parties appeared before the Tribunal through their authorized representatives.

2. Sunil Bouri the dependent son of Late Pasupati Bouri, ex-employee of Gourandi-Begunia Colliery of M/s. Eastern Coalfields Limited (hereinafter referred as M/s. ECL) filed his written statement through Mr. Rakesh Kumar, President of Koyala Mazdoor Congress. It has been contended that Late Pasupati Bouri died on 16.01.1991 at the Central Hospital, Kalla of M/s. ECL while he was posted as Under Ground Haulage Khalasi at Tara Colliery under Gourandi-Begunia Colliery of M/s. ECL. According to provisions of Clause 9.3.4 of NCWA (National Coal Wage Agreement) -VI on death of an employee his dependent, who is not more that thirty-five years of age on that date and physically fit is entitled to an employment. Sunil Bouri applied for his employment in place of his father and submitted necessary documents. The employment proposal was approved by the Screening Committee of the Colliery and Area level the same was forwarded to the Head Quarters of M/s. ECL, recommending Sunil Bouri for employment vide their letter bearing Ref. No. C-6/96/P-3216/03 dated 27.03.2003. Several years have passed but the Management of M/s. ECL did not provide employment to Sunil Bouri. It is contended by the dependent that he does not have any source of income for maintaining his family and is facing starvation. Further the case of dependent of the workman is that he is illiterate and belongs to Schedule Cast and he should be provided with employment on humanitarian ground as per provisions of National Coal Wage Agreement.

3. The Management of M/s. ECL contested the claim by filing written statement. According to the Agent of Gourandi-Begunia Colliery of M/s. ECL, Late Pasupati Bouri was an employee under the Management of M/s. ECL and died on 16.01.1991, while he was still in service as such one of his dependents is entitled to get an employment. Sunil Bouri, son of Late Pasupati Bouri submitted his claim. Which was processed for consideration. However, Smt. Sajani Bouri andothers claimed that Smt. Sajani Bouri is the widow of Late Pasupati Bouri and filed a Title Suit bearing No. T.S. 61/91 before the learned 3rd Munisf Court at Asansol, which passed an order of injunction dated 22.06.1991, restraining the Management from providing employment. According to the Management the Union has no Locus-standi to raise the Industrial Dispute for the reason that the deceased was not a member of the Union. An application was submitted by Sunil Bouri in the year 1998 and on the basis of such application he was called to appear before the Area Screening Committee at Salanpur Area Office of M/s. ECL but the applicant failed to appear. From time to time the Management of M/s. ECL passed guidelines that application with regard to Clause 9.4.0 of NCWA-V must be submitted within thirty days vide letter No. M/s. ECL/D(P)47/4484 dated 17.03.1998. The time for submission of application was further extended by two months vide a Circular bearing No. ECL/D(P)/47/12739 dated 07.09.1999. Once again, the time was extended vide Circular No. ECL/D(P)/47/10249 dated 07.06.2001, whereby applications could be considered if the same was received within three months from the date of death. It is contended that no employment can be reserved for an indefinite period or for any period beyond the time mentioned in the Circular. It is urged that Sunil Bouri is not entitled to any relief as claimed by him and the Industrial Dispute is liable to be dismissed.

4. In support of his case Sunil Bouri examined himself as workman witness -1. He has filed an affidavit-in-chief wherein he has reiterated his claim for employment due to the death of his father on 16.01.1991, while he was in service. The witness has produced a copy of the Death Certificate of his father issued by Central Hospital, Kalla as Exhibit W-1, a copy of the Death Registration Certificate as Exhibit W-2, a copy of letter dated 05.08.1999 issued to Sunil Bouri by the Senior Personnel Officer of Gourandi-Begunia Colliery of M/s. ECL asking him to submit Death Registration Certificate of his father as Exhibit W-3, a copy of reminder dated 07.01.2004 by the Company for submission of Death Registration Certificate of the ex-employee as Exhibit W-4, a copy of letter dated 25.07.2003 issued by the Director (Personnel and IR) regarding criteria for determining the age of the next kin for appointment on compassionate ground as Exhibit W-5, a copy of the Voter's Identity Card as Exhibit W-6, a copy of Aadhaar Card as Exhibit W-7, and a copy of Death Registration Certificate of the mother of Sunil Bouri as Exhibit W-8. Management was directed to produce Service Record Excerpt (SRE) of Late Pasupati Bouri but no SRE was produced on the ground that they have no dispute regarding Sunil Bouri being one of the sons of Late Pasupati Bouri.

5. It appears from the record that after evidence of Workman Witness was closed Management was given opportunity to adduce evidence on 29.03.2016, 07.06.2016 and 23.08.2016. On 23.08.2016 Mr. P. K. Goswami, learned advocate for the Management submitted that the Management of M/s. ECL will not adduce any evidence in this case. Accordingly, evidence of the Management was closed.

6. The point for consideration before this Tribunal at this stage is whether Sunil Bouri is entitled to get any employment under M/s. ECL as a dependent of Late Pasupati Bouri.

7. It is derived from the written statement filed on behalf of the Management of M/s. ECL that Late Pasupati Bouri was an employee under M/s. ECL and died on 16.01.1991, while he was in employment. It is also admitted that Sunil Bouri is the dependent son of Late Pasupati Bouri. Sunil Bouri submitted a claim for his employment as a dependent of the deceased. According to the averments in the written statement of M/s. ECL Smt. Sajani Bouri filed a Title Suit before the Court of learned 3rd Munsif at Asansol, claiming herself as the widow of the deceased. In Title Suit No. 61 of 1991 the Court passed an order of injunction on 22.06.1991 restraining the Management from providing employment to anyone as dependent of Late Pasupati Bouri. The Employer Company has contended that an application was submitted in the year 1998 for providing an employment to Sunil Bouri and he was asked to appear before the Area Screening Committee at Salanpur Area Officer of M/s. ECL. Circular were issued by the Company from time to time, extending the period for submitting application for employment by the dependent under Clause NCWA-V and time was extended from thirty days to three months from the date of death.

8. Mr. Goswami, learned advocate for the Management of M/s. ECL argued that since the application for employment was submitted after a very long period, the same could not be accepted and the petitioner is not entitled to any appointment under M/s. ECL.

9. I have no hesitation to take notice of the fact that The Management is the custodian of all the documents and it has been admitted by them that the prayer for employment of Sunil Bouri was processed by the Area Screening Committee. The Management of M/s. ECL preferred not to adduce any evidence as a result the documents related to steps taken by the Area Screening Committee were not placed before the Tribunal.

10. On a scrutiny of the cross-examination of Sunil Bouri (workman witness-1), it appears that on the date of death of his father he was about twenty-one years of age. He also admitted that Smt. Sajani Bouri filed a Title Suit against him before the Civil Judge (Junior Division), 2nd Court, Asansol. Such statements support the case of Employer that an order of injunction was passed by the Civil Court, restraining the Employer Company from providing employment to dependent of Late Pasupati Bouri. In his cross-examination Sunil Bouri stated that after the dispute in Title Suit was settled, he applied for his employment after the lapse of ten years from the date of death of his father. No copy of order passed in the Title Suit No. 61 of 1991 has been filed before this Tribunal to show the time and manner in which the Suit was disposed of. From the trend of cross-examination, it would appear that the delay in submitting application by Sunil Bouri for his employment was due to pendency of the Civil Suit which restrained the Employer Company from considering any prayer for employment of the dependent of Late Pasupati Bouri. Therefore, the delay in filing the application for employment cannot be attributed to Sunil Bouri.

11. In the case of **Gopal Mandal vs State of West Bengal (2012 (2) CHN 705),** the Hon'ble Calcutta High Court held that :

"once the application for compassionate appointment has been processed when the applicant already attained majority, then the matter has to be looked beyond the dry contours of the situation."

12. In the case of **Subimal Sarkar vs State of West Bengal (2012 SCC Online Cal 4257),** the Hon'ble Calcutta High Court observed:

" the applicant's claim for compassionate appointment cannot be denied by the authorities by keeping the application pending for an unreasonably long period of time, only in order to frustrate the purpose of the application. It cannot also be said that the necessity for compassionate appointment has been blown over due to passage of time."

13. In the case of State of **West Bengal and others vs Debargha Chakraborty and another ((2017) SCC Online Cal 43),** the Hon'ble Calcutta High Court was of the opinion that :

"the writ petitioner cannot be made to suffer for the delay not attributable to him."

In the present case the petitioner, Sunil Bouri could not have submitted an application for his employment till disposal of the Title Suit which admittedly prevented the Employer Company from processing such application.

14. It transpires from the evidence of the workman witness that on 05.08.1999, the Senior Personnel Officer of Gourandi-Begunia Colliery of M/s. ECL issued a letter to Sunil Bouri requesting him to appear before an interview board on 16.07.1999 in connection with his employment and also to produce a Death Registration Certificate his deceased father (Exhibit W-3). Another copy of letter dated 07.01.2000 was issued to Sunil Bouri in connection of earlier letter date 05.08.1999 and once again reminding him to submit the Death Registration Certificate of his father within one month from the date of receipt of the letter and if he failed to produce the same within the stipulated period his claim for employment against the death of his father would be rejected. From these communication through letters, which remained uncontroverted during cross-examination of workman witness, it transpires that the Management of M/s. ECL had processed his prayer for employment during the period from the year1999 to 2000. It was well within the knowledge of Employer of Late Pasupati Bouri that he died at the Central Hospital, Kalla on 16.01.1991. Central Hospital, Kalla is under the administration and control of M/s. ECL, therefore the question regarding death of Late Pasupati Bouri and production of the Death Registration Certificate was entirely a technical issue. The inability of the dependent son to produce the Death Registration Certificate within the stipulated time in the letter cannot be a reason for rejecting his claim for employment. Exhibit W-1 is a copy of the Death Certificate produced by the son of the deceased. It appears from the document that Late Pasupati Bouri died at the age of fifty-two years due to Cardiac Respiratory Failure in a case of Midbrain Hemorrhage.

15. There is no other contender for the employment and the Management did not produce the Service Record Excerpt of Late Pasupati Bouri.

16. Mr. Rakesh Kumar, Union representative appearing for the son of the deceased employee has accrued in favour of Sunil Bouri on the basis of the provisions in Clause 9.3.0 and 9.3.1 of NCWA-V which provide that :

"Employment would be provided to one dependent of workers who are disabled permanently and also those who die while in service."

Clause 9.3.4 of NCWA-V further provides that :

"The dependent to be considered for employment should be physically fit and suitable for employment and aged not more than 35 years provided that the age limit in case of employment of female spouse would be 45 years as given in Clause 9.5.0."

According to the Circular Ref. No. CIL/C-5B/JBCCI/9.4.2/163 dated 25.07.2003 relating to prescribed age limit for appointment of eligible dependent, it was agreed in NCWA that the criteria for determination of age of the next kin for appointment on compassionate ground was discussed in consultative committee meeting held on 23.05.2003. It was clarified that *"the age on the date of application would be reckoned for employment on compassionate ground so that candidates are not debarred on the ground of age at the time of appointment."* The circular has been produced in course of evidence and marked as Exhibit W-5.

17. From the copy of Aadhaar Card produced as Exhibit W-7 it appears that the date of birth of Sunil Bouri is recorded as 12.03.1970 at the time the candidature of Sunil Bouri was considered for employment on 05.08.1999 and his age was approximately twenty-nine years. Therefore, he is entitled to be considered for his employment as a dependent under the provisions of Clause 9.4.0 of NCWA-V, subject to his physical fitness.

18. In the light of my above discussion, I find that Sunil Bouri is entitled to employment under the prevailing and accepted norms of NCWA applicable to the Management and employee of the Company. The Management of the Company is hereby directed to consider the candidature of Sunil Bouri for his employment in the Company within a fortnight (fourteen days) from date of notification of Award and provide him with suitable employment as a son of deceased employee on compassionate ground.

Hence,

ORDERED

that the Industrial Dispute is decided in favour of the petitioner, Sunil Bouri. He is entitled for employment under the Company. An award be drawn up in the light of the above finding. Let copies of the Award in duplicate be communicated to the Ministry of Labour and Employment, Government of India for information and Notification.

ANANDA KUMAR MUKHERJEE**,** Presiding Officer

नई दिल्ली, 31 मई, 2023

का.आ. 951.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार ई.सी.एल. के प्रबंधतंत्र के संबद्ध नियोजको और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण–सह–श्रम न्यायालय, आसनसोल के पंचाट (संदर्भ सं. 03/2020) को प्रकाशित करती है, जो केन्द्रीय सरकार को 30.05.2023 को प्राप्त हुआ था।

[सं. एल-22012/115/2019 - आई आर (सी. एम-II)]

मणिकंदन. एन, उप निदेशक

New Delhi, the 31st May, 2023

S.O. 951.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 03/2020) of the Central Government Industrial Tribunal-cum-Labour Court, Asansol as shown in the Annexure, in the industrial dispute between the Management of E.C.L. and their workmen, received by the Central Government on 30/05/2023

[No. L-22012/115/2019 -IR(CM-II)]

MANIKANDAN. N, Dy. Director

ANNEXURE

BEFORE THE CENTRAL GOVT. INDUSTRIAL TRIBUNAL -CUM- LABOUR COURT, ASANSOL.

Present: Shri ANANDA KUMAR MUKHERJEE, Presiding Officer, C.G.I.T-cum-L.C., Asansol.

REFERENCE CASE NO. 03 OF 2020

PARTIES: Shital Bouri
Vs.
Management of Barmondia Colliery of M/s. ECL

REPRESENTATIVES:

For the Union/Workman: None.
For the Management: Mrs. Swapna Basu, learned advocate.

INDUSTRY: Coal.
STATE: West Bengal.
Dated: 03.05.2023

AWARD

In exercise of powers conferred under clause (d) of Sub-section (1) and Sub-section (2A) of Section 10 of the Industrial Disputes Act, 1947 (14 of 1947), Govt. of India through the Ministry of Labour, vide its Order **No. L-22012/115/2019-IR(CM-II)** dated 30.01.2020 has been pleased to refer the following dispute between the employer, that is the Management of Barmondia Colliery under Salanpur Area of M/s. Eastern Coalfields Limited and their workman for adjudication by this Tribunal.

SCHEDULE

"Whether the demand raised by the General Secretary, Colliery Mazdoor Congress (HMS), Asansol, for reinstatement of Shri Shital Bouri, Ex-UG Loader of Barmundia Colliery under Salanpur Area of M/s. E.C.L. is justified? If so, what relief Shri Shital Bouri Ex-UG Loader is entitled to? "

1. On receiving Order **No. L-22012/115/2019-IR(CM-II)** dated 30.01.2020 from the Govt. of India, Ministry of Labour, New Delhi for adjudication of the dispute, a **Reference case No. 03 of 2020** was registered on 10.02.2020 and an order was passed issuing notice to the parties through registered post, directing them to appear and submit their written statements along with relevant documents in support of their claims and a list of witnesses.

2. Mrs. Swapna Basu, learned advocate for M/s. Eastern Coalfields Limited has appeared and filed a copy of letter dated 28.04.2023 issued by the Agent, Gourandi Group of Mines addressed to Advocate. She has also filed a copy of letter dated 12.05.2016 issued by Mr. S. K. Pandey, General Secretary of Colliery mazdoor Congress addressed to the Regional Labour Commissioner (C), Asansol. The case is fixed up today for ex-parte hearing. On perusal of the record, it appears that notice was sent to the General Secretary, Colliery Mazdoor Congress under registered post for representing the workman, but the same has been returned unserved. No step has been taken on behalf of workman, Shital Bouri.

3. Since 2020, the workman has not filed any written statement in this case. In Paragraph- 2 of the written statement, the Management of Barmondia Colliery, Salanpur Area of M/s. Eastern Coalfields Limited has stated that no workman by the name of Shital Bouri with U.M. No. 603650 is posted at Barmondia Colliery under Salanpur Area of M/s. Eastern Coalfields Limited. Therefore, the dispute raised by the Union in the name of Shital Bouri is improper and is liable to be dismissed.

4. In the letter issued by Agent dated 28.04.2023, it has been reiterated that no person by the name of Shital Bouri with U.M. No. 603650 has been found in any of the official records of the Colliery. In view of such statement by the Management of Colliery and submission made by Mrs. Swapna Basu, learned advocate, the Industrial Dispute referred to this Tribunal by order No. L-22012/115/2019-IR (CM-II) dated 30.01.2020 is dismissed.

Hence,

ORDERED

that the Reference case is dismissed. An award be drawn up in the light of the above finding. Let copies of the Award in duplicate be communicated to the Ministry of Labour and Employment, Government of India for information and Notification.

ANANDA KUMAR MUKHERJEE, Presiding Officer

नई दिल्ली, 31 मई, 2023

का.आ. 952.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार ई.सी.एल. के प्रबंधतंत्र के संबद्ध नियोजको और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण–सह–श्रम न्यायालय, आसनसोल के पंचाट (संदर्भ संख्या 20/2005) को प्रकाशित करती है, जो केन्द्रीय सरकार को 30.05.2023 को प्राप्त हुआ था।

[सं. एल-22012/148/2004 - आई आर (सी. एम-II)]

मणिकंदन. एन, उप निदेशक

New Delhi, the 31st May, 2023

S.O. 952.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 20/2005*)* of the Central Government Industrial Tribunal-cum-Labour Court, Asansol as shown in the Annexure, in the industrial dispute between the Management of E.C.L. and their workmen, received by the Central Government on 30/05/2023

[No. L- 22012/148/2004 -IR(CM-II)]

MANIKANDAN. N, Dy. Director

ANNEXURE

BEFORE THE CENTRAL GOVT. INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, ASANSOL.

Present: Shri ANANDA KUMAR MUKHERJEE, Presiding Officer, C.G.I.T-cum-L.C., Asansol.

REFERENCE CASE NO. 20 OF 2005

PARTIES: Dependents of Late Kamruddin Mia

Vs.

Management of Lachipur Colliery of ECL

REPRESENTATIVES:

For the Union/Workman: Mr. Rakesh Kumar, President, Koyala Mazdoor Congress.
For the Management: Mr. P. K. Goswami, learned advocate.

INDUSTRY: Coal.

STATE: West Bengal.

Dated: 17.05.2023

AWARD

In exercise of powers conferred under clause (d) of Sub-section (1) and Sub-section (2A) of Section 10 of the Industrial Disputes Act, 1947 (14 of 1947), the Government of India through the Ministry of Labour, vide its Order **No. L-22012/148/2004-IR(CM-II)** dated 11.03.2005 has been pleased to refer the following dispute between the employer, that is the Management of Lachipur Colliery under Kajora Area of Eastern Coalfields Limited and their workman for adjudication by this Tribunal.

SCHEDULE

"Whether the action of the Management of Lachipur Colliery under Kajora Area of M/s. Eastern Coalfields Limited in denying payment of monetary compensation and employment under N.C.W.A. VI to dependent brother of Late Kammruddin Mia, Pump Khalasi is legal and justified? If not, to what relief the dependent of deceased workman is entitled? "

1. On receiving Order **No. L-22012/148/2004-IR(CM-II)** dated 11.03.2005 from the Govt. of India, Ministry of Labour, New Delhi for adjudication of the dispute, a **Reference case No. 20 of 2005** was registered on 12.04.2005 and an order was passed issuing Notice to the parties through registered post, directing them to appear and submit their written statements along with relevant documents in support of their claims and a list of witnesses. Both parties appeared before the Tribunal through their authorized representatives.

2. The dependents of Late Kamruddin Mia, ex-employee of Lachipur Colliery under Kajora Area of Eastern Coalfields Limited (hereinafter referred to as ECL) filed their written statement on 21.07.2006 through Mr. Rakesh Kumar, Union representative of Koyala Mazdoor Congress. The Management of ECL filed their written statement in this case on 03.01.2008. Several years have passed without the parties adducing any evidence. On 30.09.2015 Mst. Mariyam Bibi, the wife of deceased workman was cross-examined in this case. No document relating to service of her husband or correspondence with the Management of ECL for employment to the dependent was brought on record. There was no regular Presiding Officer in this Tribunal from 21.11.2018 to 31.08.2022. It is only on 21.02.2023 the witness was recalled for her re-examination and documents were admitted in evidence as Exhibit W-1 to W-10. The witness was re-cross-examined on behalf of the Management and discharged. Mr. Proloy Dasgupta, Manager (Personnel), Lachipur Colliery of ECL (Management witness -1) examined on 21.02.2023 and was discharged after his cross-examination.

3. It is contended by the dependents of the deceased employee that Late Kamruddin Mia a Pump Khalasi of Lachipur Colliery died in harness on 12.10.1996. It is urged that as per provisions of National Coal Wage Agreement (hereinafter referred to as NCWA) – V one dependent of Late Kamruddin Mia is entitled to get an employment. The wife of Late Kamruddin Mia claimed employment for herself and submitted documents in support of her claim. The Management of Lachipur Colliery processed her proposal and forwarded it to the Area Office. She was examined by screening committee and was sent for her medical examination before the Area Medical Officer, who declared her as unfit for employment. After receiving the report of Area Medical Officer, Mst. Mariyam Bibi, the wife of Late Kamruddin Mia applied for providing employment to the younger brother of her husband. It is contended that as per provisions of NCWA – V and VI, younger brother of her husband was entitled to get employment but the Management of ECL did not process the proposal in violation of provisions of NCWA. Despite repeated requests made by Mst. Mariyam Bibi for providing employment to her brother-in-law, i.e. the younger brother of Late Kamruddin Mia, the company neither provide any employment to the wife nor to the younger brother. Due to such violation of terms of NCWA an Industrial Dispute has been raised. According to Clause 9.4.0 of NCWA-V one dependent of deceased employee is entitled to an employment. Furthermore, if a direct dependent is not found fit, brother of the deceased employee can also be provided with employment. The dependent wife has contended that Management has not paid any monetary compensation to her as per NCWA – V and VI. It is prayed that Mst. Mariyam Bibi, the wife of Late Kamruddin Mia be paid monetary compensation till the younger brother of Late Kamruddin Mia be provided with employment with all other consequential benefit.

4. Per contra, the case of Management, as disclosed in this written statement is that instant Reference is bad-in-law and entirely misconceived. According to the Management of the employer company after death of Kamruddin Mia his wife Mst. Mariyam Bibi applied for employment against the death of her husband. She was referred for Initial

Medical Examination by Medical Board to assess her fitness. After examination the Medical Board declared Mst. Mariyam Bibi as unfit for employment. Accordingly, her claim was rejected and duly communicated to the her. Thereafter Mst. Mariyam Bibi submitted claim for employment of on Nijamuddin Mia, brother of Late Kamruddin Mia.

5. It is urged that according to the provisions of NCWA brother of a deceased employee can be provided with employment only if there is no other direct dependent family member of the deceased employee. As Late Kamruddin Mia left son and daughters as direct dependents, there is no scope for providing employment to the brother of deceased employee as per guidelines of NCWA. The company has denied that as per NCWA – V and VI the younger brother is not entitle to get employment due to presence of direct depended of the deceased.

6. The Management of the company denied the contention in of Paragraph – (7) of written statement filed on behalf of the dependents of the workman that under Clause 9.4.0 of NCWA – V one dependent should be provide with employment and if directed dependent is not found fit for job the young brother can be provided with employment. It is urged that since the claim for employment was not found valid, the dependent of deceased employee was not entitled to monetary compensation.

7. Both parties have adduced evidence in support of their cases. Mst. Mariyam Bibi is examined as workman witness -1. In her evidence-in-chief she has stated on solemn affirmation that Kamruddin Mia, ex-Pump Operator of Lachipur Colliery under Kajora Area was a permanent employee of the company and died on 12.10.1996 while in service. She stated that she applied for employment in terms with NCWA – V and submitted required documents. On the basis of her application, she was referred for medical examination to the Area Hospital where she was declared unfit for employment. After receiving the report of Medical Officer, she applied for employment of her brother-in-law, the younger brother of her husband which she claimed to be permissible under terms of NCWA but the Management regretted her proposal for employment to the younger brother of her husband. She further stated that the Management neither provided employment to the younger brother of her husband nor provided her monetary compensation as per NCWA. In her evidence-in-chief on recall she deposed that she requested the company for paying monetary compensation to her and employment to her husband's brother but the same was not complied. Then she requested the company for providing employment to her son Mohsin Ansari. The witness produced a copy of Death Certificate of her husband which is marked as Exhibit W-1, a copy of the First Information Report (F.I.R.) of Andal Police Station which is marked as Exhibit W-2, a copy of Post Mortem Report of her husband which is marked as Exhibit W-3, a copy of letter dated 21.01.1997 by which she was called for medical examination at Central Hospital, Kalla has been produced as Exhibit W-4, a copy of letter dated 02.04.1998 by which the Medical Superintendent of Central Hospital, Kalla informed the Area Medical Officer for holding Echocardiography test which is marked as Exhibit W-5, a copy of the letter dated 10.04.1998 by which the Manager, Lachipur was requested to send her for Echocardiography test which is marked as Exhibit W-6, a copy of letter dated 02.06.1999 by which the doctors declared Mst. Mariyam Bibi medically unfit for duty, produced as Exhibit W-7, reference of Mst. Mariyam Bibi to the Apex Medical Board through letter dated 09.11.1998 is produced as Exhibit W-8, a copy of application by Nijamuddin Mia, brother of my husband issued to the Agent, Lachipur Colliery for providing employment is marked as Exhibit W-9, and a copy of No Objection letter issued by the family members in favour of Mst. Mariyam Bibi (is produced as Exhibit W-10. In her cross-examination the witness deposed that she has four sons of whom three are employed. She further deposed that she did not file any application before company for paying her monetary compensation. She also stated that apart from submitting application for employment for herself and her brother-in-law she did not submit any petition before the Management of the company for providing employment to her son or monetary compensation for herself.

8. Mr. P. Dasgupta, Manager (Personnel), Lachipur Colliery has been examined on behalf of ECL as Management witness-1. In his evidence-in-chief he has admitted that Late Kamruddin Mia was a permanent employee of Lachipur Colliery and he died on 12.10.1996. His evidence-in-chief disclosed that Mst. Mariyam Bibi filed an application praying for employment under the company but she was declared medically unfit for duty. It is categorically stated that she did not file any petition claiming monetary compensation and that no monetary compensation has been paid to her till date. The witness stated that none of the dependents of Late Kamruddin Mia has been provided with employment as per NCWA. In course of cross-examination, Management witness-1 admitted that the company did not inform Mst. Mariyam Bibi that she was entitled to any monetary compensation under the provision of NCWA-IV. He also deposed that the company did not consider the prayer of Nijamuddin Mia, brother of Late Kamruddin Mia for employment as dependent as there were direct dependents of the deceased workman. The witness averred that employment is not provided to a secondary dependent.

9. The point for consideration is whether the dependent brother of Late Kamruddin Mia is entitled to employment and whether the wife of deceased employee was entitled to any monetary compensation under NCWA-VI.

10. In the instant case Nijamuddin Mia, the brother of Late Kamruddin Mia has not appeared before this Tribunal claiming employment as a dependent of late Kamruddin Mia. According to Clause 9.3.1 of NCWA-VI employment would be provided to one dependent of the worker. Clause 9.3.3 of NCWA-VI further lay down that :

"the dependent for this purpose means the wife/husband as the case may be, unmarried daughter , son and legally adopted son. If no such direct dependent is available for employment, brother, widowed daughter/widowed daughter-in-law or son-in-law residing with the deceased and almost wholly dependent on the earnings of the deceased may be considered to be the dependent of the deceased."

11. From the cross-examination of Mst. Mariyam Bibi (ww-1), I find that she has four sons, therefore, the question of providing employment to Nijamuddin Mia as a dependent is not tenable under the provisions of Clause 9.3.3 of NCWA-VI.

12. No application for employment for her son was submitted. It is also evident that the company had processed the proposal for employment of Mst. Mariyam Bibi but she was declared unfit for employment, which is gathered from Exhibit M-1 i.e. a report submitted by the committee members who held medical examination of Mst. Mariyam Bibi at Central Hospital Kalla, ECL.

13. The issue which now needs adjudication is whether Mst. Mariyam Bibi is entitled to any monetary compensation on the death of her husband. Clause 9.5.0 of NCWA-VI as well as NCWA-VI are relevant for this purpose which provide as follows :

"(ii) In case of death/total permanent disablement due to causes other than mine accident and medical unfitness under clause 9.4.0 if the female dependent is below the age of 45 years she will have the option either to accept the monetary compensation of Rs.2000/- per month or employment.

In case the female dependent is above 45 years of age she will be entitled to monetary compensation and not to employment."

In the instant case Mst. Mariyam Bibi was found medically unfit. Though she was below forty-five years of age she is entitled for monetary compensation till she attained the age of sixty years. In the present case Kamruddin Mia died on 12.10.1996 in a road accident, on G. T. Road near Kajora More. The Postmortem Report has been produced as Exhibit W-2 and his Death Certificate as Exhibit W-1.

14. On a conspectus of the facts and circumstances read together with the provisions of NCWA, I find that Mst. Mariyam Bibi who was declared unfit for employment by the Medical Board of the company is entitled to get monetary compensation from 12.10.1996 till she attains sixty years of age.

15. I therefore hold and direct the Management of Lachipur Colliery of ECL to pay monetary compensation to Mst. Mariyam Bibi, dependent wife of Late Kamruddin Mia at the prevailing rate from the date of death of her husband till she attains sixty years of age. The direction be complied within three months from the date of Notification of the Award.

Hence,

ORDERED

that an Award be drawn up in favour of Mst. Mariyam Bibi. The Management of Lachipur Colliery of ECL is directed to pay the monetary compensation at the prevailing rate from the date of death of her husband, (12.10.1996) till she attained sixty years of age. Let copies of the Award in duplicate be communicated to the Ministry of Labour and Employment, Government of India for information and Notification.

ANANDA KUMAR MUKHERJEE, Presiding Officer

नई दिल्ली, 2 जून, 2023

का.आ. 953.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार एस.सी.सी.एल. के प्रबंधतंत्र के संबद्ध नियोजको और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण–सह–श्रम न्यायालय, हैदराबाद के पंचाट (संदर्भ संख्या 63/2006) को प्रकाशित करती है, जो केन्द्रीय सरकार को 02.06.2023 को प्राप्त हुआ था।

[सं. एल-22012/307/2005 - आई आर (सी. एम-II)]

मणिकंदन. एन, उप निदेशक

New Delhi, the 2nd June, 2023

S.O. 953.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 63/2006) of the Central Government Industrial Tribunal-cum-

Labour Court, HYDERABAD as shown in the Annexure, in the industrial dispute between the Management of S.C.C.L. and their workmen, received by the Central Government on 02/06/2023

[No. L-22012/307/2005 -IR(CM-II)]

MANIKANDAN. N, Dy. Director

ANNEXURE

IN THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL -CUM- LABOUR COURT AT HYDERABAD

Present: Sri IRFAN QAMAR, Presiding Officer

Dated the 12th day of April, 2023

INDUSTRIAL DISPUTE No. 63/2006

Between:

The Vice-President
(Sri S. Satyanaryana),
Singareni Collieries Employees Union (CITU),
C-30, Bazaar Area,
Bellampalli – 504251. ….. Petitioner

AND

The General Manager,
M/s. Singareni Collieries Company Ltd.,
Mandamarri Division,
Mandamarri, Adilabad Distt. …. Respondent

Appearances:

For the Petitioner : M/s. A.K. Jaya Prakash Rao, M. Govind &Venkatesh Dixit, Advocates
For the Respondent: Sri Y. Ranjeeth Reddy, Advocate

AWARD

The Government of India, Ministry of Labour by its order No. L-22012/307/2005-IR(CM-II) dated 9.10.2006 referred the following dispute under section 10(1)(d) of the I.D. Act, 1947 for adjudication to this Tribunal between the management of M/s. Singareni Collieries Company Ltd., and their workman. The reference is,

SCHEDULE

"Whether the action of the management of M/s. Singareni Collieries Company Ltd., in reducing two annual increments with cumulative effect in respect of Sri Patha Padma Rao is legal and justified? If not, to what relief the workman is entitled?"

The reference is numbered in this Tribunal as I.D. No. 63/2006 and notices were issued to the parties concerned.

2. **The averments made is the claim statement are as follows**:

It is submitted that the workman Sri Patha Padma Rao joined the service of the Respondent on 23.11.1981 and presently working as support man. While working so, the respondent issued the charge sheet dated 3.06.2002 alleging that while working on 15.05.2002 in II Shift, he instructed to withdraw supports at 4th Dip slice under the personal supervision of Shri V.B.Satya Raju, Sr. Mining Sirdar, and have started the withdrawal operation without inspection, testing and personal supervision of Mining Sirdar and Petitioner has failed to use the proper tolls which resulted in fatal injuries to Sri Palkapati Ramesh and Pittal Ramachander, which amounts to violation of provisions of Regulation 110 of CMR 1957 and constitutes misconduct under Company's Standing Order No.25(16). It is submitted that the workman reported for duty on 15.05.2002 in II Shift and the Over Man by name Mr. Chary who is in charge of assigning the work to the workman, he has assigned the work to the workman and five other workmen to remove the supports under the supervision of Mr. V.B. Satya Raju, Mining Sirdar. It is further submitted that the said Mining Sirdar informed the workman and the other 5 co-workers that the roof condition is good and further

instructed the workman to start the work and to complete the work by 7 p.m. It is submitted that by the time he reached the work spot the other workmen already removed 2 cogs and after removing the 3rd cog by the concerned workman and it is noticed by the Petitioner that the roof is having cracks and it is decided to leave the 5th prop. The Petitioner further submitted that mean while Sri P. Ramesh along with Sri P. Ramachander went to remove the 5th prop, without listening the workman's instruction that there is a danger in removing the 5th prop and they sustained fatal injuries due to the falling of roof. Petitioner submitted that they are using the proper tools while working and the two workmen sustained the injuries only due to their negligence. Therefore, there is no fault on the part of the Petitioner. It is submitted that the Petitioner gave explanation dated 7.6.2002 to the charge sheet dated 3.6.2002 explaining true incident, correct facts and disputed the charges as false and baseless. Petitioner categorically stated the same to the Enquiry Officer. A stage managed enquiry was conducted wherein all the reasonable opportunity was denied to the workman to participate in the enquiry. The Enquiry Officer failed to explain the procedure of the enquiry to the workman and recoded the proceedings of the enquiry in English even though the workman the workman requested the Enquiry Officer to record the proceedings in Telugu. The entire procedure of the enquiry is illegal, unjust, contrary to law and in violation of principles of natural justice, therefore the enquiry is liable to vitiated. It is submitted that during enquiry, Management has not examined the concerned persons Sri Chary, overman who assigned the work to the worker and Sri Satya Raju, Mining Sirdar, who supervised the work of the workman personally and who was present at the spot and who informed that the roof condition is good. The Management has examined those persons as their witnesses who were neither present at the spot nor they have given any instructions to the workman. It is submitted that the Petitioner requested the Enquiry Officer to present Sri Chary, and Sri Satya Raju but the Enquiry Officer declined the workman request which is against the principles of natural justice. The statement of Petitioner before the Enquiry Officer remained un-rebutted and unchallenged. The Petitioner's witness Sri M. Gangaiah categorically stated that the Mining Sirdar has stated that the roof is in good condition, which shows that as per the orders of the Mining Sirdar, the work is carried out by the workman. While passing the orders the Respondent has totally failed to consider the enquiry made by the Dy. Director of Mines Safety Hyderabad Region No.II on 15.5.2002 wherein it is clearly revealed that the supports been withdrawn with due permission from the Sirdar and a safety pro withdrawer been used as required by condition No.a(1) and a(3) of the standing order for withdrawal of supports framed under regulation 110 of the coal Mines Regulations, 1957 and the support men adhered to the provisions of the regulations and order made there under as required by the provisions of Regulation 3891(a) of Coal Mines Regulations, 1957. It is therefore prayed that the Hon'ble Court may answer the reference in favor of the concern workman, by set a siding the order dated 2.4.2003 and direct the respondent to add two increments and pay the difference of salary and all the consequential benefits to the workman Sri Patha Padma Rao with interest in the interest of justice.

3. **Respondent filed counter denying the averments of the Petitioner as under**:

It is to submit that the workman concerned Sri Patha Padma Rao was appointed into the services of the Respondent Company on 23.11.1981 and he is presently working as support man at KK.1 Incline, Mandamari Area. It is submitted that the workman concerned Mr.Patha Padma Rao, Support man, EC 2227836, KK.1 Incline, was charge sheeted vide charge sheet o.MMR/KK1/R/007/58, dated 03.06.2002 and the extract of the charge sheet is reproduced below:

"You are charged with the following offence(s) noted hereunder.

On 15.05.2002 in II shift, you were instructed to withdraw supports at 4th Dip slice (i.e. 41 No. dip slice) of 56LS/42 Dip in depillaring panel No.20 in 3 seam, under the personal supervision of Shri V.B. Satya Raju, Sr. Mining Sirdar. It is reported that you have started the withdrawal operations before inspection, testing and personal supervision of Mining Sirdar. Further during withdrawal operations you have not used proper tools which resulted in fatal injuries to Sri Palkapati Ramesh and Sri Pittala Ramchander at about 4.30 p.m.

The above act of yours amounts to violation of provisions of Regulation 110 of CMR 1957 and constitute misconduct under Company's Standing Order No. 25.16 which reads as follows:

"25.16: Any breach of Mines Act, 1952 or any other Act or any rules or regulations or bylaws there under."

It is submitted that workman concerned was on duty on 15.05.2002 in II shift. As Support man he is supposed to undertake the removal of supports under the supervision of Mining Sirdar. As per the statements of the Management witnesses during the course of enquiry, it was established that the workman concerned went down the mine in II shift on 15.05.2002 and had undertaken the withdrawal work without the presence of Mining Sirdar. During the course of cross examination by the management witness, the workman concerned admitted that he did not see the Mining Sirdar at the work spot and did not ask any of his crew members as to whether Mining Sirdar had inspected the roof or not. He further admitted that withdrawal work cannot be carried out in the absence of Mining Sirdar and that at no time withdrawal work was undertaken in the absence of Sirdar. He also admitted that it is not lawful to carryout withdrawal work without the Sirdar. The WW-1, Mr. Mothe Gangaiah, Support man, during cross examination by management witness, had categorically stated that even if the Mining Sirdar advises them to undertake withdrawal work, it does not mean that they should work in the absence of Sirdar and that they should take Sirdar along with them and should work in his presence. During further cross examination of WW-1 Mr. M.Gangaiah clearly

admitted that he could never complete the quantum of work out of his experience in the past by 4.30 p.m., as was done by the crew on 15.05.2002 even by applying the safety tools. From the statements of Management witnesses and also replies by the workman concerned and his witness in the cross examination, clearly indicate the fact that the workman undertook withdrawal work in the absence of Mining Sirdar and without applying proper tools. It is submitted that the Enquiry Officer conducted the enquiry by following the principles of natural justice. The concerned workman has fully participated in the enquiry. After conclusion of enquiry, the enquiry officer submitted his report with a finding that the charges leveled against the delinquent are proved beyond doubt. Copies of the enquiry report and proceedings were sent to the workman vide letter dated 27.09.2002 to enable them to make a representation, if any, against the findings of the enquiry officer within seven days of receipt of the same. The workman has received the letter and submitted his representation dated 07.10.2002. The Disciplinary Authority carefully considered the enquiry report and all connected documents and representation submitted by the employee and imposed penalty of stoppage of two increments with cumulative effect vide order dated 02.04.2003. Further, Sri Patha Padmarao filed an appeal dated 21.04.2003 before the Director (Personnel, Administration & Welfare) and the Appellate Authority to review the order passed by the Disciplinary Authority. The Appellate authority has gone through the grounds raised in the Appeal, enquiry report and proceedings and also his fast record and found that there are no extenuating circumstances to set aside the penalty imposed by the Disciplinary Authority and accordingly confirmed the order passed by the Disciplinary Authority vide letter dated 09-09-2003. It is submitted that the employee has filed a Writ Petition No. 27351 of 2003 praying the Hon'ble High Court of A.P. to quash the order dated 02.4.2003 passed by the Disciplinary Authority and also the order dated 09.09.2003 passed by the Appellate Authority and consequently to direct the respondents to release all the increments. The Hon'ble High Court vide order dated 27.10.2003 dismissed the writ petition as withdrawn. It is to submit that the workman concerned did not use proper tools. This fact is very much revealed by the WW1 during cross examination. It is to add that the I1 shift commences at 3.00 PM and ends at 11.00 PM. In his deposition the workman concerned informed that they have withdrawn three cogs and four props and they were transporting the chock pieces of the removed cogs and that the accident took place by 4.30 PM. The Workman Witness No.1 in the cross examination specifically admitted that he could never complete the same quantum of work in his experience in the past by 4.30 PM as was done by the crew on 15.05.2002 in II shift by applying safety tools. This clearly establishes the fact that the workman concerned did not use proper tools while undertaking withdrawal work. It is to submit that the charge sheeted employee submitted his written explanation dated 07.06.2002 to the charge sheet stating that five Support men including the workman concerned were engaged for withdrawing supports at 4th Dip slice of 56 LS/42 Dip under the personal supervision of Sri V.B.Satya Raju, Sr. Mining Sirdar and that the said Sirdar informed that there was no bad roof and advised to start work. He further added that the Mining Sirdar went to Junction and that they carried the work as per his instructions and used the tools for withdrawing. After removing 03 cogs, they left the prop. Since the explanation was found to be incomplete and not satisfactory, an enquiry was ordered. The contention of the petitioner that a stage managed enquiry was conducted wherein reasonable opportunity was denied to the charge leveled against the workman concerned is not correct. Enquiry was conducted by the Enquiry Officer giving full and fair opportunity to the delinquent on 08.07.2002, 09.07.2002 and 18.07.2002, wherein the charge sheeted employee participated fully and he was given every opportunity to cross examine the management witnesses and to produce his witnesses. The workman concerned did not choose to cross examine the management witnesses and produced his witness Mr. Mothe Gangaiah. The Enquiry Officer at the commencement of the enquiry proceedings explained the enquiry procedure in Telugu to the charge sheeted employee, which was accepted by the workman concerned and affixed his signature on the proceedings. He did not dispute this aspect at any point of time, except in this petition. Further, at every stage the Enquiry Officer explained the contents of the enquiry proceedings to the workman concerned in Telugu and the workman having satisfied that the same were recorded correctly, affixed his signature and he did not dispute the same and did not object for recording the proceedings in English. Even when the workman concerned was supplied a copy of the enquiry report and proceedings also he did not raise any objection on this score. The contention of the petitioner that the entire procedure of enquiry is illegal, unjust, contrary to law and in violation of principal of natural justice and liable to be vitiated is incorrect. It is to submit that the overman Mr.Chary and Sr. Mining Sirdar Mr.V.B.Satya Raju who were on duty on 15.5.2002 in II shift, too were issued charge sheets for their fault as supervisors and separate enquiries were instituted against them on the charges leveled against them for the accident that took place on 15.5.2002 and hence these two employees were not examined in the enquiry conducted on the charge leveled against Mr.Patha Padma Rao. The further contention of the petitioner that the he requested the Enquiry Officer to present Mr. Chary, Overman and Mr.Satya Raju, Mining Sirdar but the enquiry officer declined the request of the workman is incorrect as there was not such request. The statement of the workman concerned before the Enquiry Officer remained un-rebutted and unchallenged is incorrect. The witness on behalf of workman concerned though claimed that he heard the Mining Sirdar Mr.Satya Raju telling that the roof condition was good, in the cross examination he accepted that this does not mean they should work in the absence of Mining Sirdar and confirmed that he never undertook withdrawal work in the absence of Mining Sirdar. The enquiry by Dy. Director of Mines Safety, Hyderabad Region-II is different from that of domestic enquiry. In the domestic enquiry conducted by the Enquiry Officer the charge leveled against the workman was established. The allegation that on the basis of perverse findings of Enquiry Officer the respondent mechanically passed the order of deferment of two annual increments with cumulative effect is illegal etc. is incorrect. The charge leveled was proved in the domestic enquiry which was

conducted following the principles of natural justice and the workman concerned participated fully in the enquiry. The misconduct committed by the workman concerned and proved against him being serious in nature, it deserved severe punishment, but considering the service of the workman concerned and with a view to provide him an opportunity to correct himself and improve his capabilities, the respondent management took lenient view and impose the penalty of stoppage of two increments with cumulative effect due to the workman concerned from 01.03.2003 and 01.03.2004 vide penalty order No.MMR/PER/D/072/1277 dated 02.04.2003. In view of the above, it is prayed that this Hon'ble Court may be pleased to dismiss the claim petition as devoid of merits.

4. As the Petitioner workman conceded the validity of domestic enquiry, the domestic enquiry conducted in the present case is held legal and valid on 5.4.2013.

5. Heard arguments of Learned Counsels for both the parties under Sec.11 A of the Act as well as perused written arguments.

6. **On the basis of pleadings of both the parties and arguments advanced by them following points emerges for determination in this matter:-**

I. Whether, the inquiry proceeding has been conducted in fair and proper manner and proper opportunity of hearing has been afforded to the workman or not?

II. Whether action of the management of M/s. Singareni Collieries Company Ltd., in reducing two annual increments with cumulative effect in respect of Sri Patha Padma Rao is legal and justified?

III. To what relief the workman is entitled for?

Findings:

7. **Points No.I & II:** First and foremost question arises in this matter is whether the inquiry proceeding has been conducted in fair and proper manner or not and proper opportunity of hearing has been afforded to the petitioner workman or not during the inquiry. Although Petitioner has conceded the legality and validity of domestic enquiry on 5.4.2013 even then, it is duty of the Court to examine this question on merits. The petitioner has submitted that a staged managed inquiry was conducted by respondent management wherein all reasonable opportunity has been denied to the workman to participate in the inquiry. Petitioner further submits that the inquiry officer failed to explain the procedure of the inquiry to the workman and recorded the proceedings of the inquiry in English even though the workman requested the inquiry officer to record the proceedings in Telugu. The entire procedure of the inquiry is illegal, unjust and contrary to law and in violation of the principle of natural justice. Therefore inquiry in liable to be initiated. It is also submitted that management has not examined concerned persons Sri Chary, overman who assigned the work to the worker and Sri Satya Raju, Mining Sirdar who supervised the work of workman personally and who was present at the spot and who informed the roof condition is good. The petitioner further submits that management has examined those persons as their witnesses who were neither present at the spot nor they have given any instructions to the workman. Petitioner further submits that he requested the inquiry officer to examine Sri Chary and Sri Satya Raju during the inquiry but the Inquiry Officer declined the workman request which is against the principle of natural justice. Hence inquiry is liable to be initiated for the material irregularity.

8. On the other hand, respondent submitted that the contention of the petitioner that a stage managed inquiry was conducted wherein opportunity was denied to the workman to participate in the inquiry is not correct. Inquiry was conducted by the inquiry officer giving full and fair opportunity to the delinquent on 8th July, 2002, 9th July, 2002 and 18th July, 2002, wherein chargesheeted employee participated fully and he was given every opportunity to cross examine the management witnesses and to produce his witness. The workman concerned didn't choose to cross examine the management witness and produce his witness Mr. Mothe Gangaiah. The inquiry officer at the commencement of the inquiry proceedings explained the inquiry proceedings in telugu to the chargesheeted employee which was accepted by the workman concerned and he also affixed his signature on the proceedings. Respondent further submits that the petitioner didn't dispute this aspect at any point of time except in this petition, it is further submitted that every stage the inquiry officer explained the contents of the inquiry proceedings to the workman concerned in telugu and the workman having satisfied that the same was recorded correctly affixed his signature and didn't dispute the same and didn't object for recording the proceedings in english. Even when the workman concerned was supplied a copy of the inquiry report and proceedings also he didn't raise any objection to this score. Respondent submitted that the contention to the petitioner, the entire procedure of inquiry is illegal, contrary to law and in violation of principle of natural justice and liable to be vitiated, is incorrect. Respondent further submits that Mr. Chary, Overman and Mr. V B Satyaraju, Mining Sirdar who were on duty on 15th May, 2002, in second shift were also issued chargesheets for their fault as supervisors and separate inquiries were instituted against them on the charge level against them. Hence, these 2 employees were not examined in the inquiry conducted on the charge leveled against Mr Patha Padmarao. It is also submitted that the contention of the petitioner that he requested an inquiry officer to examine these two employees and the inquiry officer declined his request is totally incorrect as there was no such request made by the workman. It is further submitted that the charge leveled against the workman was proved in the domestic inquiry which was conducted following the principle of natural justice and the workman concerned participated fully in the inquiry.

9. In the context of examining the legality and validity of domestic inquiry in the light of principle laid down by Hon'ble Apex Court in Sur Enamel and Stamping Work Limited vs The Workman A.I.R. 1963 P. 1914, wherein apex court held:-

An inquiry can't be said to have been properly held unless:-

(a) The employee proceeded against has been informed clearly of the charges leveled against him

(b) The witnesses are examined - ordinarily in the presence of the employee in respect of the charges

(c) The employee is given a fair opportunity to examine the witnesses

(d) He is given a fair opportunity to examine witnesses including himself in his defense if he so wishes on any relevant matter and

(e) The inquiry officer recorded his findings with reasons for the same in his report.

Now, we proceed to examine whether the inquiry officer in the present matter has followed the aforesaid principles as laid down by Apex Court while conducting the inquiry against the delinquent workman.

(a) The perusal of the record of inquiry proceedings goes to reveal that the charge sheet dated 3rd June, 2002 was served upon the petitioner and he received the chargesheet and submitted in response to the chargesheet, his explanation dated 7th June, 2002. Thus, it's proved that the charge sheet was served upon the delinquent and during the proceeding he didn't plead guilty of the charge leveled against him. This point No. (a) is decided in favor of the management and against the workman.

(b), (c) & (d) : The perusal of the inquiry proceedings reveals that the respondent management during the inquiry proceedings has examined two witnesses, T Venkat Ram Reddy, Safety Officer and Sri V Sitaramaiah, Under Manager. Both the witnesses were examined in the presence of a charge -sheeted employee. Inquiry officer afforded to charge sheeted employee for cross examination opportunity from these two witnesses but the delinquent employee refused to avail of it. Further, the delinquent employee has also examined in defense during the inquiry himself as a witness as well as Mr. Mothe Gangaiah, Supportman. Thus, it is amply proved that the inquiry officer has followed the procedure laid down by the Hon'ble Apex Court for legal and fair inquiry. Both the Management witnesses have been examined in the presence of delinquent employee. Thus, it cannot be said that no fair opportunity was afforded to the petitioner to defend himself.

Thus, Point No. (b), (c) & (d) are decided accordingly.

(e). The close scrutiny and perusal of the inquiry proceedings and the reports of the inquiry officer Delineate that the inquiry officer has discussed all the material evidence produced in enquiry and he has given reasoned findings in his report. There is no ambiguity or any illegality of non-consideration of material evidence by the inquiry officer. The findings of the inquiry officer is based on the evidence with cogent reasons, as such no fault can be found in the findings of inquiry officer.

Thus, Point (e) is decided accordingly.

Therefore, the tribunal is of the opinion that domestic inquiry conducted in the present case is legal and valid, no fault can be found in it. Point No.(e) is decided accordingly.

10. **Points No.II & III**: The Petitioner submitted that while the concerned workman was working on 15th May, 2002 in second shift, he was instructed to withdraw support at 4th dip slice under the personal supervision of Sri V B Satyaraju, Senior Mining Sirdar but workman started the withdrawal operation without inspection, testing and personal supervision of Mining Sirdar and he has also failed to use the proper tools which resulted in fatal injuries to Sri Palkapati Ramesh and Pittak Ramchandra which amounts to violation of the provision of regulation 110 of CMR 1957 and constitutes misconduct under companies standing order no. 251 (16). Petitioner further submits that he reported for duty on 15th May, 2002 in second shift and overman Mr Chary who is in charge of the assigning the work to the workman, he has assigned the work to the concerned workman and 5 other workman of removing the supports under the supervision of Mr V B Satyaraju, Mining Sirdar. The Mining Sirdar informed the concerned workman and other 5 coworkers that the roof of 4th dip where the removal of support of the roof was assigned to the workman, that the roof condition is good and he instructed the workman to start the work and complete the work by 7:30 pm. It's also submitted that all the workman took the tools to go on the work inside the pit but the concerned workman axe was loosed and to tighten the same he went to blacksmith and got it repaired and when he returned back around 4:30 pm Mining Sirdar left the place and as per instruction of Mining Sirdar, petitioner along with coworker went inside the pit for removing the support where other workers already withdrawn two cogs and 3rd cog was also removed but the Mining Sirdar wasn't present at the work spot. It is further submitted that, when the petitioner workman inquired with P Ramesh, the co worker, whether they have tested the roof, he informed the petitioner that the roof was tested and in good condition. After removing the third cog, the 4th cog also dislodged and at that time they saw a crack and they decided to leave the 4th cog. It is also submitted that the petitioner workman stated to Mr.P. Ramesh who died

in the accident not to remove 5th cog as there's a crack in the roof but without listening the workman he along with P Ramchandra removed the cog and the layer of the roof fell down on them and they died. It is submitted that the statement of the workman during the inquiry remains un-rebutted and unchallenged. It is also submitted that it is the duty of Mining Sirdar at the time of removing the cogs of the slab but the mining Sirdar has given the instruction that the roof is under good condition and has to be removed and left the place by 7:30 pm.

11. On the other hand, respondent submitted that the workman concerned was on duty on 15th May, 2002 in second shift. The workman concerned was on duty on 15.05.2002 in II shift. As Support man he is supposed to undertake the removal of supports under the supervision of Mining Sirdar. As per the statements of the Management witnesses during the course of enquiry, it was established that the workman concerned went down the mine in 11 shift on 15.05.2002 and had undertaken the withdrawal work without the presence of Mining Sirdar. During the course of cross examination by the management witness, the workman concerned admitted that he did not see the Mining Sirdar at the work spot and did not ask any of his crew members as to whether Mining Sirdar had inspected the roof or not. He further admitted that withdrawal work cannot be carried out in the absence of Mining Sirdar and that at no time withdrawal work was undertaken in the absence of Sirdar. He also admitted that it is not lawful to carry out withdrawal work without the Sirdar. The WW1 Mr. Mothe Gangaiah, Support man during cross examination by a management witness, had categorically stated that even if the Mining Sirdar advises them to undertake withdrawal work, it does not mean that they should work in the absence of Sirdar and that they should take Sirdar along with them and should work in his presence. During further cross examination of WW-1 Mr. M.Gangaiah clearly admitted that he could never complete the quantum of work out of his experience in the past by 4.30 p.m., as was done by the crew on 15.05.2002 even by applying the safety tools. The statements of Management witnesses and also the replies given by the workman concerned and his witness in the cross examination, clearly indicate the fact that the workman concerned Sri Patha Padma Rao, undertook withdrawal work in the absence of Mining Sirdar and without applying proper tools.

12. The main allegation against the petitioner is that when he was on duty on 15th May, 2002 in second shift he was instructed to withdraw the support at 4th dip slice in depillaring panel No. 20 in 3 scene under the personal supervision of Sri V B Satyaraju, Senior Mining Sirdar, but in violation of companies Standing Order No. 25.16 he started the withdrawal operations before inspection and testing and personal supervision of mining Sirdars. It is further alleged that during withdrawal operation he has not used proper tools which resulted in fatal injuries to Sri Palkapati Ramesh and Sri Pittala Ramchandra at about 4:30 pm, thereby violating the provision of regulation 110 of CMR 1957 committed misconduct.

13. During inquiry two witnesses, Sri T Venkatraman Reddy, Safety Officer, KK first in chain and Sri V Sitaramaiah, Under Manager, KK1 in chain was examined. Both witnesses in their statements have proved the allegation that on 15th May, 2002 in the second shift, delinquent Sri Patha Padmarao, Support man along with other five Supportmen was engaged for withdrawing of supports in 20 panels depillaring 4th dip, has alleged in the charge and after meeting the Sirdar on surface, the petitioner and other supportmen gone to underground and reach the workspot by 4:00 pm. Witness further states that Sri P Padmarao, Support Majdur reached the work spot by 4:15 pm and the other Co-Supoortman started withdrawing the work before the arrival of Mining Sirdars to the work spot. Sri Padmarao also started work with Co-workman at about 4:30 pm. When Sirdar Sri V B Satyaraju reached the work spot he told P Ramesh, not to withdraw the 5th prop which was under the bed roof. Sri Palakatti Ramesh went hurriedly and withdrew the 5th Prop then a bedroof stone patch fell on Sri Ramchandra and Sri Palakatti Ramesh inflicting the fatal injuries. Then the Manager Sirdar immediately came to the work spot from junction of 42 dip. Till then Shri Padmarao, Supportman didn't see the Mining Sirdar at work spot, thus as per statement of the witness Mr. T Venkatraman, the petitioner workman as per rule was expected to initiate the work of withdrawal of dip in the presence of and under direction of V B Satyaraju, Mining Sirdar, but without waiting for direction and arrival of Mining Sirdar the petitioner started the work of withdrawal of the dip along with co-workers which resulted in fatal accident and consequently death of two supportmen namely, Ramchandra and Palakatti Ramesh occurred at the spot. Similarly the other witness Sri V Sitaramaiah has also stated in support of the charge. Although, the delinquent workman, the Petitioner was afforded the cross examination opportunity from these witnesses but he didn't avail of it therefore the statement of these witnesses in support of the charge that Petitioner along with co-workers carried out the work of removing the dip in the absence and supervision of Mining Sirdar is uncontroverted and un-rebutted. Further, the petitioner in defense has examined himself as WW1 and in cross examination he stated that he didn't see the Mining Sirdar when he reached the work spot and he didn't ask any of crew members that mining sirdar inspected and cleared the work spot, further he states in cross examination that withdrawing work can't be carried out in the absence of Sirdar. In response to the question that did he ever undertook the withdrawing work without Sirdar on the post, he replied, "No, without Mining Sirdar never withdrawing work was engaged". Further, witness states that "No, it's not lawful to do withdrawing work in the absence of Mining Sirdar". Thus, from the above statement of the delinquent workman it clearly establishes that he carried out the work of withdrawing the 4th dip slice at the work spot, on 15.5.2002 and thereby he committed violation of company's standing order which caused fatal accident.

14. Further, another witness examined in the defense namely, Mr. Mothe Gangaiah, he also stated in cross examination that "I never did withdrawing work in the absence of Mining Sirdar and they should take Sirdar along

with them and to do work in the presence of Sirdar." In reference to the tool used by the workman for the work, and time of work, witness states that "No, I could never complete the work in question. In my experience in the past by 4:30 pm." Therefore, delinquent workman himself as well as WW1 has admitted that they started the work at spot in the absence of Mining Sirdar which was done in violation of the company's standing orders. Therefore, the inquiry officer on the basis of appreciation of evidence collected during the inquiry arrived at conclusion that charge framed against the delinquent workman stands proved and consequently submitted his reasoned report. The petitioner couldn't produce any evidence that ever he asked or moved any application before the inquiry officer to summon and examine any other witnesses. Therefore, the contention of the petitioner at this stage regarding non examination of the other witnesses is untenable. As far as the contention of the petitioner is concerned that Mining Sirdar was not examined who has committed the grave misconduct and crime, Respondent submitted that the Mining Sirdar has also been chargesheeted for his dereliction in performance of the duties. However, it was open to the petitioner to examine co-support person who were doing the work at spot on that day along with him, but he didn't dare to produce them as a witness in support of his claim. Therefore, his plea in this regard is not acceptable.

15. Since, the validity of the domestic inquiry has been held legal and valid, now we proceed to examine whether the action of management in termination of the petitioner from the employment is legal and justified. In this regard **Hon'ble Apex Court in the case of M.L. Singla Vs. Punjab National Bank** has held that, *"once it is held that domestic inquiry is legal and proper the next question which arises for consideration is as to whether the punishment imposed on petitioner is just and legal or it is disproportionate to the gravity of the charges."*

16. Hon'ble Apex Court in the case of Coal India Ltd vs Mukul Kumar Chaudhary, Civil Appeal No. 5762-5763, date of decision 24th August, 2001, has laid down the test for deciding proportionality of the punishment imposed and held that: *"One of the test to be applied while dealing with the question of quantum of punishment would be:- Would any reasonable employer have imposed such a punishment in such circumstances? Obviously, a reasonable employer is expected to take into consideration measures, magnitude and degree of misconduct and all other relevant circumstances and exclude irrelevant matters before punishment."*

17. From the foregone discussion it is clear that the charges against the Petitioner were held proved in domestic inquiry. The charges levelled against the Petitioner were of serious nature because due to his misconduct fatal accident occurred at work spot and resulted in death of two co-workers. Thus, there was a gross dereliction in performance of the duties by the delinquent workman and no employer would ever allow or tolerate such conduct of his employee while on duty. Therefore, the charges proved being serious in nature against Petitioner, even then the respondent management taking a lenient view and affording the opportunity to Petitioner to improve his conduct, has decided to impose the penalty of stoppage of two increments with cumulative effect. Thus, it cannot be said that the imposed punishment imposed upon the petitioner for his misconduct by the Respondent was disproportionate.

Thus, the Points No.I & II are answered accordingly.

18. **Point No.III**: In view of the finding in foregone points the petitioner's claim is found to be devoid of any merit and he is not entitled to any relief and claim petition is liable to be dismissed.

ORDER

In view of the discussion and finding given in Points No.I, II and III, the claim petition of the petitioner found devoid of any merit. Hence, it fails and is accordingly dismissed and the action of the management of M/s Singreni Collieries Company Ltd in reducing two annual increments with cumulative effect in respect of petitioner Sri Patha Padmarao is held legal and justified. The claim petition of petitioner is dismissed. As such, the Petitioner is not entitled to any relief as prayed for.

Award is passed accordingly. Transmit.

Dictate to Smt. P. Phani Gowri, Personal Assistant, transcribed by her and corrected by me on this the 12th day of April, 2023.

IRFAN QAMAR, Presiding Officer

Appendix of evidence

Witnesses examined for the Petitioner	Witnesses examined for the Respondent
NIL	NIL

Documents marked for the Petitioner

NIL

Documents marked for the Respondent

NIL

नई दिल्ली, 2 जून, 2023

का.आ. 954.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार नेशनल एविएशन ऑफ इंडिया लिमिटेड के प्रबंधतंत्र के संबद्ध नियोजको और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण–सह–श्रम न्यायालय, हैदराबाद के पंचाट (संदर्भ संख्या 56/2011) को प्रकाशित करती है, जो केन्द्रीय सरकार को 02.06.2023 को प्राप्त हुआ था।

[सं. एल- 11012/53/2010- आई आर (सी. एम-I)]

मणिकंदन. एन, उप निदेशक

New Delhi, the 2nd June, 2023

S.O. 954.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 56/2011) of the Central Government Industrial Tribunal-cum-Labour Court, HYDERABAD as shown in the Annexure, in the industrial dispute between the Management of National Aviation of India Ltd. and their workmen, received by the Central Government on 02/06/2023

[No. L-11012/53/2010 -IR(CM-I)]

MANIKANDAN. N, Dy. Director

ANNEXURE

IN THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL -CUM- LABOUR COURT AT HYDERABAD

Present: - Sri IRFAN QAMAR, Presiding Officer

Dated the 16th day of March, 2023

INDUSTRIAL DISPUTE No. 56/2011

Between:

The Regional Secretary,
Air Corporations Employees' Union,
Indian Airlines Ltd., Begumpet,
Hyderabad – 500 016. …..Petitioner Union

AND

1. The General Manager (Engg.)
Air India, NACIL, Begumpet,
Hyderabad-16.

2. The Executive Director (South),
Air India, NACIL, Airlines House,
Meenambakkam,
Chennai – 600 017. …. Respondents

Appearances:

For the Petitioner : Sri Ch. Indrasena Reddy, Advocate
For the Respondent : M/s. K. Srinivasa Murthy, V. Uma Devi & N. Srinivas, Advocates

AWARD

The Government of India, Ministry of Labour by its order No. L-11012/53/2010-IR(CM-I) dated 24.8.2011 referred the following dispute between the management of Air India, NACIL and their workmen under section 10(1)(d) of the I.D. Act, 1947 for adjudication to this Tribunal. The reference is,

SCHEDULE

"**Whether the action of the Management of National Aviation Company of India Ltd., Hyderabad in deduction of wages and withholding of PLI of Shri S.S. Srinivas and 62 others for 25th and 26th May, 2010 is justified and legal? To what relief the workman concerned are entitled to?"**

The reference is numbered in this Tribunal as I.D. No. 56/2011 and notices were issued to the parties concerned.

2. Due to non-appearance of the Petitioner union, a no dispute award was passed dated 26.12.2016, when case was posted for Petitioner's evidence and after giving sufficient opportunity.

3. Petitioner filed IA 34/2017 requesting to reopen the case and permit the Petitioner union to contest the matter on merits in the interest of justice. IA allowed and ID 56/2011 was reopened for Petitioner's evidence. But Petitioner union did not turn up for adducing evidence till date. It thus becomes crystal clear that the petitioner seems to be not interested in pursuing his case and as such a no claim award is given against the petitioner union. As such, a 'No Claim' award is passed.

Award is passed accordingly. Transmit.

Typed to my dictation by Smt. P. Phani Gowri, Personal Assistant, corrected by me on this the 16th day of March, 2023.

IRFAN QAMAR**,** Presiding Officer

Appendix of evidence

Witnesses examined for the Petitioner	Witnesses examined for the Respondent
NIL	NIL

Documents marked for the Petitioner

NIL

Documents marked for the Respondent

NIL

नई दिल्ली, 2 जून, 2023

का.आ. 955.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार भारतीय खाद्य निगम के प्रबंधतंत्र के संबद्ध नियोजको और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण–सह–श्रम न्यायालय, हैदराबाद के पंचाट (संदर्भ संख्या 21/2010) को प्रकाशित करती है, जो केन्द्रीय सरकार को 02.06.2023 को प्राप्त हुआ था।

[सं. एल- 22011/7/2010- आई आर (सी. एम-II)]

मणिकंदन. एन, उप निदेशक

New Delhi, the 2nd June, 2023

S.O. 955.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 21/2010) of the Central Government Industrial Tribunal-cum-Labour Court, HYDERABAD as shown in the Annexure, in the industrial dispute between the Management of Food Corporation of India and their workmen, received by the Central Government on 02/06/2023

[No. L- 22011/7/2010-IR(CM-II)]

MANIKANDAN. N, Dy. Director

ANNEXURE

IN THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL CUM LABOUR COURT AT HYDERABAD

Present: - Sri IRFAN QAMAR**,** Presiding Officer

Dated the 16th day of March, 2023

INDUSTRIAL DISPUTE No. 21/2010

Between:

Smt. K. Laxmamma & 11 others,

D/o Kondappa,
Opp. Railway Station,
Zangalapallil (RS), Kandukur (Post)
Anantpur -515721 ..….Petitioner

AND

The Senior Regional Manager,
Food Corporation of India,
Haka Bhavan, Nampally,
Hyderabad – 500 004. …. Respondent

Appearances:

For the Petitioner : Sri R. Ramanjaneyulu, Advocate
For the Respondent: M/s. B.G. Ravindra Reddy & Y. Ranjeeth Reddy, Advocates

AWARD

The Government of India, Ministry of Labour by its order No. L-22011/7/2010-IR(CM.II) dated 7.6.2010 referred the following dispute under section 10(1)(d) of the I.D. Act, 1947 for adjudication to this Tribunal between the management of Food Corporation of India and their workman. The reference is,

SCHEDULE

"Whether the action of the Management of Food Corporation of India, BSC, Zanngalpalli by not regularizing the services of Smt. K. Laxmamma and 11 others (as per list enclosed) w.e.f. 10.9.1984 is legal and justified? To what relief are the workmen concerned entitled for?"

The reference is numbered in this Tribunal as I.D. No. 21/2010 and notices were issued to the parties concerned and the Petitioner entered appearance. Petitioner filed claim statement and Respondent filed counter statement.

2. Both parties are absent on the date of hearing. Docket reveals that the case is fixed for Petitioner's evidence since 11.10.2017 and number of opportunities were provided to petitioner(s) for adducing the evidence. Petitioner(s) or WW1 did not appear in the case nor adduced any evidence. Hence, the claim of the Petitioners for direction to Respondent to regularize their services is not substantiated with any evidence.

3. It thus becomes crystal clear that the petitioner(s) seems to be not interested in pursuing the case and as such a no claim award is given against the workman/petitioner. As such, a 'No Claim' award is passed.

Award is passed accordingly. Transmit.

Typed to my dictation by Smt. P. Phani Gowri, Personal Assistant, corrected by me on this the 16th day of March, 2023.

IRFAN QAMAR**,** Presiding Officer

Appendix of evidence

Witnesses examined for the Petitioner	Witnesses examined for the Respondent
NIL	NIL

Documents marked for the Petitioner

NIL

Documents marked for the Respondent

NIL

नई दिल्ली, 2 जून, 2023

का.आ. 956.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार एस.सी.सी.एल. के प्रबंधतंत्र के संबद्ध नियोजको और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण – सह – श्रम न्यायालय, हैदराबाद के पंचाट (संदर्भ संख्या 151/2013) को प्रकाशित करती है, जो केन्द्रीय सरकार को 02.06.2023 को प्राप्त हुआ था।

[सं. एल- 22013/01/2023-आई आर (सी. एम-II)]

मणिकंदन. एन, उप निदेशक

New Delhi, the 2nd June, 2023

S.O. 956.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 151/2013) of the Central Government Industrial Tribunal-cum-Labour Court, HYDERABAD as shown in the Annexure, in the industrial dispute between the Management of S.C.C.L. and their workmen, received by the Central Government on 02/06/2023

[No. L-22013/01/2023-IR(CM-II)]

MANIKANDAN. N, Dy. Director

ANNEXURE

IN THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL CUM LABOUR COURT AT HYDERABAD

Present: - Sri IRFAN QAMAR, Presiding Officer

Dated the 31st day of March, 2023

INDUSTRIAL DISPUTE L.C.No. 151/2013

Between:

Sri Akula Ramanna,
S/o Pochaiah,
C/o P. Rama Krishna,
Advocate,
H.No. 9/37 Bahar, Saharastates,
Mansoorabad,
Hyderabad-68. .....Petitioner

AND

1. The Chief General Manager,
M/s. Singareni Collieries Company Ltd.,
Srirampur Area, Srirampur,
Adilabad district.
2. The Superintendent of Mines,
M/s. Singareni Collieries Company Ltd.,
Srirampur No.1 Incline ....Respondents

Appearances:

For the Petitioner : Sri P. Rama Krishna, Advocate
For the Respondent : Sri Y. Ranjeeth Reddy, Advocate

AWARD

Sri Akula Ramanna who worked as General mazdoor (who will be referred to as the workman) has filed this petition under Sec. 2A(2) of the Industrial Disputes Act, 1947 against the Respondents M/s. Singareni Collieries Company Ltd., seeking for declaring the proceeding No. SRP/PER/13008/292 dated 25.1.2010 issued by Respondent No.1 as illegal, arbitrary and to set aside the same consequently directing the Respondents to reinstate the Petitioner into service duly granting all the consequential benefits such as continuity of service, back wages and all other attendant benefits etc., and such other reliefs as this court may deems fit.

2. **The averments made in the petition in brief are as follows**:

It is submitted that the Petitioner was initially appointed as Floating Badli Filler vide office order No.PBPA/261.V/4242 dated 7.4.1987, w.e.f. 30.4.1987. The Petitioner competed with hundreds of candidates o f his batch, in running for five kilo metres on 9.2.1987 and won his lively hood and was appointed in the company on 2.5.1987. Subsequently confirmed and also sanctioned two additional SPRAs w.e.f. 1.1.1998 and 1.1.2005, in addition to annual SPRAs on the basis of his performance, as he was regular and sincere to his duties. During the

year 2004, he suffered Typhoid and was hospitalized . It is submitted that Petitioner used to attend duty from his village Itikala Laxettipet Mandal, Adilabad Dist., 25 kms from work place. Then he requested Management for allotment of quarters as per his seniority. But despite his eligibility, though his juniors were allotted quarters, the Respondent did not allot quarters to the Petitioner. While the matter stood thus, charge sheet No. SRP. /R/8/2009/1171, was issued alleging that the Petitioner absented from duty during the year 2008, Standing order 25.25. Petitioner submitted explanation dated 07.05.2009, submitting that for the last two years he was suffering from ill-health and as such he was unable to attend duty regularly, but not absenting intentionally. His explanation was not considered by 2nd respondent. An Enquiry was fixed on 23.05.2009 at 3-30 pm and completed on the same day in an hour. It is submitted that document quoted /referred in the enquiry proceedings was neither shown nor supplied to Petitioner. Petitioner further submits that his LTI was obtained on different written papers and was allowed for duty further. It is submitted that in his reply to show cause notice, Petitioner submitted that he intimated about his ailment and treatment from time to time and submitted medical certificates while reporting, and that he was not allowed for duty number of days though he attended duty. But his representation was in vain, the petitioner was dismissed vide order No SRP/PER/13008/292 Dated 25.01.2010. It is submitted that the action of the respondent in dismissing the petitioner from service is wholly illegal, arbitrary, violative of principles of natural justice. The charge sheet was dated nil, not signed and incomplete when issued. The enquiry is an empty formality and mechanical procedure was adopted to dismiss the petitioner and to reduce piece rated and aged workers. Had the enquiry been conducted as per the principles of natural justice, the submissions of the petitioner would have been rebutted. The enquiry was not conducted in Telugu. Enquiry Officer in his report clearly conformed, it is a common or admitted or undisputed fact that the petitioner absented from January to December-2008 due to his ill health. As a result memo of settlement dated 09.08.2011 which was signed by the company and agreed to consider re- appointment of dismissed employees. The petitioner also submitted application along with others, after scrutiny he was called for interview also at Head Office Kothagudem, on 26.04.2012, at 9.00 am, but in vain. Having utilized his strength and health for 20 years, when his age advanced, instead of providing any better condition of service, weeding him out of employment, when he fell sick for a certain tenure, his inability to be regular for duty, was considered as reasonable cause for absence by the respondents to dismiss the Petitioner. The ultimate and capital punishment of dismissal from service is too harsh, excessive and disproportionate to the charges alleged. It is submitted that the petitioner is the sole broad-winner in his family consisting of his wife and three children. The petitioner has not gainfully employed elsewhere from the date of dismissal till date. Hence, it is prayed to modify or set aside the punishment of dismissal. Consequently directing the respondents to re-instate the petitioner into service duly granting all other consequential benefits such as continuity of service, back wages and all other attendant benefits.

3. <u>The Respondents filed counter denying the averments made in the petition, with the averments in brief which runs as follows</u>:

The Petitioner was dismissed from the Company's service vide order dated 30.01.2010 on proved charges, after conducting a detailed domestic enquiry duly following the principles of natural justice. It is submitted that the petitioner was initially appointed in the Company on 02.05.1987 as Floating Badli filler, and later he was regularized as Coal filler on 01.01.2005. While working at SRP.1 Incline the petitioner was issued with a Charge Sheet No.SRP.1/R/8/2009/1171, dated 04.05.2009 for his unauthorized absence from duty without sanctioned leave or sufficient cause on various dates during the period from 01.01.2008 to 31.12.2008, under Company's Standing Order Nos. 25.25 which reads as under.

"25.25: Habitual late attendance or habitual absence from duty without any sufficient cause."

The Petitioner acknowledged the receipt of the charge sheet on 04.05.2009, and submitted his explanation dated. 07.05.2010 which was found to be not satisfactory hence an enquiry was ordered. The Enquiry Notice No.SRP. 1/R/8/09/1340, dated.19.05.2009 was issued to him advising to attend the enquiry on 23.05.2009. It is submitted that the enquiry was conducted on 23.05.2009, adhering to the principles of natural justice. The Petitioner attended and fully participated in the enquiry, and he was given full and fair opportunity to defend his case, including availing the services of a defense assistant in the enquiry which he however refused. At the outset the Enquiry Officer read over the contents of the charge sheet and explained the enquiry procedure in Telugu. The petitioner expressed no objection for recording the enquiry proceedings in English, as the enquiry proceedings were in fact held in Telugu, and it was once again explained in Telugu by the Enquiry Officer at every stage of the enquiry. The Presenting Officer and the management witness deposed their evidence in the presence of the delinquent which was duly recorded by the Enquiry Officer. Further, the documentary evidence was produced by the management to substantiate the charges leveled against the petitioner in the enquiry. The charge sheeted workman did not cross examine the management witness when the opportunity was afforded to him, and voluntarily pleaded guilty of charges leveled against him. The Enquiry Officer on the basis of the evidence adduced in the enquiry and after appreciating all the evidence, submitted his report in which the charge sheeted workman was held to be guilty of the charges leveled against him under Company's Standing Order No.25.25. As such, a copy of the Enquiry report and proceedings were served to the Petitioner vide letter No.SRP.1/R/S/09/1641, dated.09.06.2009 advising him to submit his representation if any, within seven days of receipt of the letter, the Petitioner received the letter but did not submit any representation. It is to submit that the Disciplinary Authority after going through the entire enquiry proceedings, representation submitted

by the petitioner, and after evaluating all the evidence on record concurred with the findings of the enquiry officer, and as the charges framed and proved in the enquiry were grave and serious in nature warranting punishment with that of dismissal, and after considering his past record and found no extenuating circumstances to take a lenient view, the delinquent workman was dismissed from Company's Services with effect from 30.01.2010 Vide letter No.SRP/PER/I3.008/292, dated.25.01.2010. Subsequently, It is submitted that the Petitioner was a chronic and habitual absentee, and did not put in at least 190 attendances as expected from an underground workman in any of the year since 2004, and put in only 86 attendances in the year 2008 and remained absent from duty without sanctioned leave, sick or sufficient cause. The following attendance particulars clearly indicate that the workman was never regular to his duties.

Year	2004	2005	2006	2007	2008	2009
Attendance	150	132	115	100	86	44

Further, The Petitioner did not communicate the reasons of his absence to the mine authorities at any point of time, which clearly establish the fact that he was not interested in his job. The Petitioner failed to correct himself even though sufficient opportunity was afforded to him, and ample time was at his disposal from the date of serving the charge sheet to the date of his dismissal but to no avail. Therefore, the management was compelled to dismiss the petitioner, from the service of the Company with effect from 30.01.2010 on proved charge. The Petitioner was earlier issued with a Charge Sheet No. SRP. I/R/8/2008/210 dated 18.1.2008 for his unauthorized absence from duty in the year 2007, without sanctioned leave or sufficient cause under Company's Standing Order Nos.25.25. Subsequently the petitioner was imposed with a penalty of reduction of 2 SPRAs with effect from 1.2.2009 vide letter No. SRP/PER/13 -008/2751, dated 24.06.2008 on proved charges. The petitioner did not realize his mistake and continued to remain a chronic and habitual absentee. As such the allegations of the petitioner that Annual SPRAs was sanctioned to him, as he was regular and sincere to his duties is not correct. Further, the quarters are allotted to the eligible employees of the Company, based on their seniority and guidelines prescribed for allotment of quarters by the area quarter allotment committee. The petitioner was not eligible for allotment of quarter as per his seniority and guidelines. Petitioner was a chronic and habitual absente and has put in only 86 attendance in the year 2008 and remained absent from duty unauthorized for 201 days without sanctioned leave or sufficient cause, for which the petitioner was issued with a charge sheet No.SRP. 1/R/8/2009/1171, dated 04.05.2009 under Company's Standing Order No.25.25. The Petitioner at no point of time has applied for sanction of leave or sick, and did not give intimation to the mine authorities about the reasons for his absence from duty. The petitioner submitted his explanation dated 07.05.2010 which was found to be not satisfactory hence an enquiry was ordered. The enquiry was held on 23.05.2009 in consonance with the principles of natural justice and the petitioner was given full and fair opportunity to defend his case. The petitioner himself admitted his mistake and pleaded guilty. It is submitted that a copy of the Enquiry report and proceedings were served to the Petitioner on 10.06.2009 vide letter No.SRP.1/R/8/09/1641, dated.09.06.2009, but he did not submit any representation. The Disciplinary Authority after going through the entire enquiry proceedings and after evaluating all the evidence on record and after considering his past record was constrained to dismiss the petitioner from the services of the Company. Hence, it is prayed to dismiss the petition as devoid of merits.

4. As there was no one to challenge the legality and validity of the domestic enquiry conducted in the present case, the domestic enquiry conducted by the Respondents is held as legal and valid vide order dated 8.4.2019.

5. Both the parties have advanced their arguments under Sec.11(A) of the Industrial Disputes Act, 1947, in support of their claim.

6. <u>On the basis of pleadings of both the parties as well as the arguments submitted, following points emerge for determination in this matter:</u>-

I. Whether the termination /removal of the Petitioner from service vide impugned order No. SRP/PER/13.008/292 dated 25.1.2010 by the Respondent is illegal, arbitrary and liable to be set aside?

II. Whether the Petitioner is liable to be reinstated into service duly granting of consequential benefits such as continuity of service, back wages and all other attendant benefits?

III. To what relief the Petitioner is entitled?

7. **<u>Point No.I & II</u>**: As per claim petition filed by the claimant, he was appointed as Floating Badli Filler vide office order No.PBPA/261.V/4242 dated 7.4.1987, w.e.f. 30.4.1987. Further he submitted that during the year 2004, he suffered Typhoid and was hospitalized . He was attending duty from his village Itikala Laxettipet Mandal, Adilabad Dist., 25 kms from work place. Then he requested Management for allotment of quarters as per his seniority. But, the Respondent did not allot quarters despite his eligibility. Further, he submitted that charge sheet No.SRP./R/8/2009/1171, was issued alleging that the Petitioner absented from duty during the year 2008, under Standing order 25.25. Although the Petitioner submitted explanation dated 07.05.2009, submitting that he was suffering from ill-health and as such he was unable to attend duty regularly, and not absenting intentionally. But

Enquiry was conducted against him and completed in maximum one hour. The Petitioner has received the termination/dismissal order dated 25.1.2010 . He has taken the plea that no document quoted /referred in the enquiry proceedings was neither shown nor supplied to him and his thumb impression was obtained on different papers. Further, he has taken the plea that charge sheet was not dated, not signed and incomplete when issued. The whole enquiry is an empty formality, commenced and completed within an hour's time, and mechanical procedure evolved and adopted to dismiss the Petitioner. His ground of illness was not considered during the enquiry proceeding. Further the enquiry proceedings were not conducted in Telugu and Enquiry Officer in his report clearly conformed that it is admitted, undisputed fact that Petitioner was absent from January, 2008 to December, 2008 Petitioner submitted explanation that he was absent due to ill-health but Enquiry Officer jumps into conclusion and avers that charge sheeted employee habitually absented and the report of the Enquiry Officer is perverse and hasty conclusion, It is further submitted that the evidence/witnesses produced by the Management is not relevant to the charges levelled against him. As MW stated that the Petitioner absented during 2007 and two SPRAs were deducted, but the Management did not produce any evidence or documents to establish the statement. Further, it is submitted that charge sheet and further disciplinary proceeding is a phrase and empty formality. It is also submitted that Petitioner is sole bread winner in his family consisting of his wife and three children, pursuing studies and as a result of his dismissal the whole family is rendered without livelihood and become burden to one another. It is also submitted that the petitioner is not gainfully employed elsewhere from the date of dismissal till date.

8. It is worth while to mention here that the validity of domestic enquiry has been held legal and valid vide order dated 8.4.2019.

9. The first argument advanced by the Petitioner is that charge sheet supplied to him in the enquiry was not dated, signed and incomplete when issued. The perusal of the record of enquiry proceedings goes to show that the charge sheet issued to the Petitioner in enquiry has been dated 4.5.2009 and it is duly signed by Dy. G.M., SRP.I Incline, at the foot of the charge sheet and the thumb impression of Petitioner on dated 4.5.2009 is also affixed on it. It reflects that charge sheet was dated and signed by the authority was received by the Petitioner on the same day. Moreover, Petitioner has submitted his explanation in response to the charge sheet. Therefore, it can not be said that any kind of prejudice has been caused to him in this regard. Further, the record of enquiry proceeding also reveals that when the question was put to the delinquent Petitioner whether he understood the contents of the charge sheet delinquent replied: "Yes, I have understood the content of charge sheet." There after Enquiry Officer read over the charge sheet to the delinquent workman and explained in detail about the contents of the charge sheet in Telugu language. At the foot of the enquiry proceeding along with signatures of the Enquiry Officer and Presenting Officer, the thumb impressions are also affixed by charge sheeted employee which goes to show that he participated in the enquiry and was fully informed about the full contents of the charge sheet in Telugu language. Therefore, the plea taken by the Petitioner that the enquiry proceedings were not done in Telugu is not sustainable and tenable. Further it is undisputed and admitted fact that the Petitioner was absent from duty on the dates mentioned in the charge sheet dated 4.5.2009 i.e., from 1st January, 2008 to 31st December, 2008 and he has submitted explanation that only due to ill-health he had to absent from his duties and not otherwise. Petitioner alleges that the Enquiry Officer did not consider medical certificates endorsed by Mines Manager and concluded enquiry.

10. Perused the record of enquiry proceeding. The Petitioner employee was cross examined by the Presenting Officer on this aspect. In the answers to the question put to him by the Presenting Officer, Petitioner replied that he have not intimated about his ill-health to the Superintendent of Mines, SRP.I Incline. Further, he was asked to produce evidence in support of his statement or the charge framed against him in the charge sheet, then he replied, "No sir, I am not having any evidence to produce in the enquiry." Further, he was asked by the Enquiry Officer, he want to add something, but the delinquent replied that, he do not want to say anything more than this. He was also asked to produce any witness or document or any other evidence in support of his statement, he replied as below: "No. I do not want to examine any witness or any document or any other evidence in support of my statement and the charge served on me." Therefore, during the enquiry proceeding fair opportunity of hearing was provided to the Petitioner to fortify his statement of ill health, but he did not produce any documentary or oral testimony evidence. Therefore, the claim of the Petitioner that he had submitted the medical certificate during the enquiry, regarding his absenteeism from duty and it was not considered by Enquiry Officer, have no force and same is not acceptable. Further, during the enquiry proceeding, statement of Sri S.H. Rahman, clerk, SRP I Incline, MW recorded who has stated that the delinquent workman remain habitually absent from duty on a number of days from January, 2008 to December, 2008 without sufficient cause. He has also stated that the delinquent has put in only 86 actual musters during the calendar year 2008 whereas as per Law the requisite musters must be put in by workman is for 190 days. Further he has stated that delinquent has also absented for 213 days in the year 2007 unauthorizedly, for which two SPRAs are reduced as punishment imposed for his absenteeism during the year 2007 under company's Standing Order No.25.25. The statement of witness was recorded in the presence of the Petitioner and he has accepted and admitted that it has been correctly recorded. Further during the enquiry in order to prove the charge of absenteeism against the Petitioner workman, Sri P. Sambaiah, Office Superintendent, SRP I Incline, was also examined and he has also stated the same fact and proved that the delinquent Sri Akula Ramanna, is a habitual absentee and he was served with charge sheet date d 4.5.2009 as he remained habitually absent on the dates mentioned in the charge sheet from January, 2008 to December, 2008 without sufficient cause which constituted misconduct in view of company's

standing order No.25.25. Further, he has stated that Petitioner acknowledged the charge sheet and submitted explanation and the explanation submitted by delinquent found not satisfactory. The delinquent workman was asked whether he want to cross examine Management witness, but he refused to cross examine the witness. Thus the statement of witness MW1 MW2 in support of charge goes uncontroverted. Thereafter, the enquiry proceeding was concluded and the Enquiry Officer submitted reasoned report. Thus, from the perusal of the record it manifests that the enquiry was conducted by following the principles of natural justice and fair opportunity of hearing was extended to the Petitioner.

11. Moreover, the Petitioner himself admitted the fact that he was absent from duty for the period from January, 2008 to December, 2008 and he also admitted the fact that he did not intimate about his absenteeism from duty for the period from January, 2008 to December, 2008 to the authority. The reason for his absenteeism from duty furnished by the Petitioner in his petition is that he was suffering from illness. But neither he produced any medical certificate nor documentary evidence regarding his illness during the charge sheeted period nor has submitted any plausible explanation that why he did not intimate about his absence from duty due to illness, to the competent authority. Therefore, in the absence of the medical documents and intimation proof, it is proved that the Petitioner remained absent from duty from January, 2008 to December, 2008 without sanctioned leave, unauthorizedly and committed misconduct in violation of the standing order No.25.25. As far as contention about non-allotment of the quarters to him by the Respondent is concerned, Respondent has submitted that the quarters are allotted to the regular employees of the company based on their seniority and guidelines prescribed for allotment of quarters by the area quarter allotment committee. But the Petitioner has not produced any evidence in this regard that he was eligible for allotment of the quarter, as per criteria set by the quarter allotment committee of the Respondent. Thus, contention of the Petitioner in this regard is unacceptable and it cannot be an excuse to remain absent form duty by the Petitioner unauthorizedly.

12. Another the plea taken by the Petitioner that as a result of MOS dated 9.8.2011 which was signed by the company and agreed to consider re-appointment of dismissed employees, the Petitioner also submitted the application along with others, after scrutiny he was called for interview also at Head Office Kothagudem, on 26.4.2010, but in vain. In this regard, the Respondent has submitted that MOS was reached by the company with the then recognized trade union on 9.8.2011 under Section 12(3) of I.D. Act, 1947 before the Regional Labour commissioner (Central), Hyderabad. As per the terms and conditions of the settlement a circular No.CRP/PER/IR/S/555/1267 dated 9.8.2011 was issued by the company calling applications from the ex-workmen, who were dismissed from the services of the company, during the period from 1.1.2000 to 31.12.2010 under absenteeism. The High Power Committee constituted for this purpose reviewed all such cases. However, the committee did not recommend the case of the Petitioner as he was not covered under the eligibility criteria prescribed for considering the case. Therefore, the case of the Petitioner was not considered for re-employment as per the settlement. It is relevant to be mentioned here that re-employment of dismissed workmen is a discretionary power of the employer and the Petitioner has not pointed out any case similar to his case of dismissed employee who has been provided re-employment by Respondent in preference to the Petitioner. Moreover, the Petitioner was not challenged the non-selection in re-employment in this petition nor relief claimed. Therefore, his argument in this regard not sustainable.

13. Petitioner also submitted that he is the sole bread-winner in the family consisting of wife and three children, as a result of dismissal the whole family is rendered without livelihood and become burden to one another. Since the Petitioner has not been gainfully employed elsewhere from the date of dismissal till date. In this regard the Respondent counsel submitted that the Petitioner was orally advised time and again by the mine authorities to attend his duty regularly but to no avail. The Petitioner attended counseling held for improving performance, but the Petitioner did not kept his promise and his lack of interest in job. Thus, plea taken by the Petitioner that he is sole bread winner of his family and as a result of dismissal his whole family is rendered without livelihood is not sustainable keeping in view his conduct of long absenteeism from duty. The Petitioner is responsible towards his family members as well as company and he must have attended duty regularly. Any employees owes to employer devotion to duty and integrity but, Petitioner fails in both respect. Thus, plea taken by Petitioner have no merit, liable to be rejected. Petitioner himself is responsible for creating the crisis of livelihood even after affording many opportunities to him for improvement but he did not pay heed to it, hence faced consequences for his conduct in terms of punishment of dismissal. As being absenting from duty unauthorizedly time and again due to his absence the Respondent suffers a lot. No reasonable employer would tolerate such employee in his employment as in the case of Petitioner. Hence, dismissal of Petitioner from employment was just and legal.

14. Now we come to the point whether the punishment of dismissal imposed upon Petitioner for his misconduct is disproportionate or not commensurate to the misconduct. In this regard, Respondent counsel submitted that Petitioner was a chronic and habitual absentee and did not put in atleast 190 musters attendance as acceptable for an underground workman in any of the years since 2004 and put in only 86 musters in the year 2008, and remained absent from duty without sanctioned leave without sufficient cause. Respondent has furnished the details of the attendance of the workman during last six years which goes to show that in the year 2004, the attendance was only 150 days, in the year 2005- it was 132 days, in the year 2006-115 days, in the year 2007- 100 days, and in 2008-86 days only, in the year 2009 it was only 44 days, which is much less of requisite musters of 190 days in one calendar

year. Thus, Petitioner lacks devotion to his duty and continued to remain absent from duty unauthorizedly. Further, he did not keep up his assurance of being regular to his duties, after affording opportunity and remained unauthorizedly absent without sanctioned leave or permission. Petitioner did not countered or contradicted the above fact. Therefore, Respondent has no option except to dismiss the Petitioner from services. In support o his argument, Respondent has cited the following decisions:

(i). **Hon'ble Apex Court in State of UP and others vs Ashok Kumar Singh and another 1996(1) SCC, Page 302 held:-**

"Having noticed the fact that the first respondent has absented himself from duty without leave on several occasions, we are unable to appreciate the High Court's observations that "His absence from duty would not amount to such a grave charge." Even otherwise, on the facts of this case, there was no justification for the High Court to interfere with the punishment holding that "the punishment does not commensurate with the gravity of the charge" especially when the High Court concurred with the findings of the Tribunal on facts. No case for interference with the punishment is made out. The Hon'ble Supreme Court allowed the Appeal."

(ii). Further, **in North Eastern Karnataka Road Transport Corpn. Vs. Ashappa's Case, dated 12.5.2006 the Apex Court, while dealing with the case of absenteeism, have held**:-

"...remaining absent for a long time, in our opinion, can not be said to be a minor misconduct. The appellant runs a fleet of busses. For running the busses, the service of the conductor is imperative. No employer running a fleet of busses can allow an employee to remain absent for a long time. The respondent had been given opportunities to resume his duties. Despite such notices, he remained absent. He was found not only to have remained absent for a period of more than 3 years, his leave records were seen and it was found that he remained unauthorized absent on several occasions. In this view of the matter, it cannot be said that the misconduct committed by the respondent herein has to be treated lightly."

(iii). **In Delhi Transport Corporation v. Sardar Singh [(2004) 7 SCC 574], the Apex Court held**:

"Conclusions regarding negligence and lack of interest can be arrived at by looking into the period of absence, more particularly, when same is unauthorised. Burden is on the employee who claims that there was no negligence and/or lack of interest to establish it by placing relevant materials. Clause (ii) of para 4 of the Standing Orders shows the seriousness attached to habitual absence. In clause (i) thereof, there is requirement of prior permission. Only exception made is in case of sudden illness. There also conditions are stipulated, non-observance of which renders the absence unauthorized."

15. Therefore, in view of the above discussion and law laid down by the Hon'ble Apex Court, since Petitioner was chronic and habitual absentee and lacking devotion to duty and due to his misconduct of absenteeism in violation of Standing Order No.25.25 agreement, due to it work of the Respondent company suffered a lot. Therefore, Respondent company was left with no option except to remove Petitioner from employment by imposing the punishment of dismissal. Therefore, in these circumstances, it can not be said that punishment imposed on the Petitioner is disproportionate or not commensurate to the misconduct committed by him.

16. In view of the discussion in the foregone paragraphs and law laid down by the Apex Court, the action of the respondent management in terminating the services of the petitioner vide order No. SRP/PER/13008/292 dated 25.1.2010 is found just and legal

Thus, Points No.I & II are answered accordingly.

17. **Point No.III**: In view of the discussion and findings arrived at Points No.I & II, the petitioner is not entitled to any relief. The claim petition of the petitioner is unfounded hence liable to be dismissed.

Thus, Point No.III is answered accordingly.

ORDER

In view of the finding given in the determination of Points No. I and II as above, the action of the respondent management in terminating the services of the petitioner vide order No. SRP/PER/13008/292 dated 25.1.2010 is held just and legal. The claim petition of the petitioner is dismissed.

Award is passed accordingly. Transmit.

Dictated to Smt. P. Phani Gowri, Personal Assistant, transcribed by her and corrected by me on this the 31st day of March, 2023.

IRFAN QAMAR, Presiding Officer

Appendix of evidence

Witnesses examined for the Petitioner	Witnesses examined for the Respondent

NIL NIL

Documents marked for the Petitioner

NIL

Documents marked for the Respondent

NIL

नई दिल्ली, 2 जून, 2023

का.आ. 957.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार एस.सी.सी.एल. के प्रबंधतंत्र के संबद्ध नियोजको और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण–सह–श्रम न्यायालय, हैदराबाद के पंचाट (संदर्भ संख्या 50/2010) को प्रकाशित करती है, जो केन्द्रीय सरकार को 02.06.2023 को प्राप्त हुआ था।

[सं. एल-22013/01/2023 - आई आर (सी. एम-II)]

मणिकंदन. एन, उप निदेशक

New Delhi, the 2nd June, 2023

S.O. 957.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 50/2010) of the Central Government Industrial Tribunal-cum-Labour Court, HYDERABAD as shown in the Annexure, in the industrial dispute between the Management of S.C.C.L. and their workmen, received by the Central Government on 02/06/2023

[No. L- 22013/01/2023-IR(CM-II)]

MANIKANDAN. N, Dy. Director

ANNEXURE

IN THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL -CUM- LABOUR COURT AT HYDERABAD

Present: - Sri Irfan Qamar, Presiding Officer

Dated the 28th day of April, 2023

INDUSTRIAL DISPUTE L.C.No. 50/2010

Between:

Syed Mahaboob,
S/o Syed Khamruddin,
Clo A.Sarojana, Flat No. G7,
Rajeshwari Gayatri Sadan,
Opp: Badruka Jr. College for Girls,
Kachiguda, Hyderabad. ...Petitioner

AND

1. The Chairman & Managing Director,
   M/s. Singareni Collieries Company Ltd.,
   Kothagudem, Khammam District.
2. The Director (PA & W),
   M/s. Singareni Collieries Company Ltd.,
   Kothagudem, Khammam District.
3. The Chief General Manager,
   M/s. Singareni Collieries Company Ltd.,
   RG-1 Area, Godavarikhani,
   Karimnagar District. ……. Respondents

Appearances:

For the Petitioner : M/s. A. Sarojana & K. Vasudeva Reddy, Advocates
For the Respondent: M/s. P.A.V.V.S. Sarma & Vijaya Laxmi Panguluri, Advocates

AWARD

Sri Syed Mahaboob who worked as General Mazdoor (who will be referred to as the workman) has filed this petition under Sec. 2A(2) of the Industrial Disputes Act, 1947 against the Respondents M/s. Singareni Collieries Company Ltd., seeking for reinstatement into service duly granting all the consequential benefits such as continuity of service, back wages and all other attendant benefits etc., and such other reliefs as this court may deems fit.

2. **The Brief averments of the claim petition filed by the Petitioner are as under**:

It is submitted that the petitioner was initially appointed as Badli Filler in the 1st respondent company on 3.9.1993 and after putting up satisfactory service, he was confirmed as Coal Filler. Subsequently, the petitioner was converted as General Mazdoor. During his tenure of 16 years, petitioner has not been issued with any charge sheet and his services were appreciated by one and all. While so, a change sheet dated 21.2.2008 was issued alleging that, on 18.2.2008 petitioner caught red handed while taking away 20 Kg copper wire (cable conductor) in a bag at 6L/ID. On receipt of charge sheet. petitioner has submitted his explanation on 27.2.2008, pleading that he has not committed any misconduct as alleged in the charge sheet. However, without considering the merits of his explanation, an enquiry was initiated whereat petitioner was not given any opportunity much less valid in nature. On behalf of management, the Management Representative examined himself and the petitioner's statement was recorded. Neither any witnesses were examined on behalf of the management, nor the petitioner was permitted to examine witnesses n his behalf. Even the procedure of enquiry was also not explained to the petitioner. Further, the documents relied upon by the Presenting Officer were not furnished to the Petitioner either before or during the course of enquiry. From the beginning the enquiry officer proceeded with a preconceived notion, as if the petitioner is guilty of charges. Though petitioner was not aware of the English or Telugu languages proceedings of enquiry were drafted in English and signatures of the petitioner were obtained. Had the enquiry officer conducted the enquiry properly, out come of enquiry would have been different. As a result of improper enquiry, petitioner was put to great prejudice. Basing on such lop sided enquiry, the enquiry officer submitted his report, holding the charge as proved. Consequently, show cause notice dated 21.2.2009 was issued, to which the petitioner has submitted his reply on 17.3.2009. Even the disciplinary authority has not considered the submissions made by the petitioner and wholly relying upon the version of the Management Representative, the petitioner was dismissed from service vide proceedings dated 25.3.2009. Aggrieved by the above, petitioner filed WP No.7868 of 2009 before the Hon'ble High Court of AP. However, the Hon'ble High Court of AP by an order dated 18.4.2009 adjudicated the Writ Petition, directing the petitioner to file an appeal before the appellate authority. Accordingly, the petitioner filed an appeal before the Appellate Authority. However, as the appeal was not considered by the appellate authority. Petitioner had to approach the Hon'ble High Court of AP by filing WP No.14244 of 2009. Having considered, the Hon'ble High Court of AP was pleased to dispose of the Writ Petition by an order dated l6.1.2009, directing the appellate authority to dispose of the appeal. Consequently, the appellate authority has passed the order dt.26.2.2010, rejecting the appeal filed by the petitioner. As such, petitioner left with no other alternative, except to approach this Hon'ble Court for justice. None of the submissions of petitioner were considered by the 3rd respondent before passing the impugned order of dismissal. It is submitted that, while holding the petitioner as guilty, the enquiry officer relied upon the alleged statement of E.Rajaiah. But neither E. Rajaiah was examined before the enquiry officer nor the alleged statement was marked in the enquiry, duly furnishing a copy of the same, to the petitioner. But, by relying upon the alleged statement of E.Rajaiah, petitioner was held guilty. Therefore, the impugned order of dismissal issued by the 3rd respondent, relying upon the laconic report of the enquiry officer, is unsustainable in law. It is submitted that, on receipt of the charge sheet, petitioner has not only denied the charge, but also pleaded that at 6L/1ID a bag was found lying and near the said bag, Sri B.Venkateshwarlu (Management Representative) was found standing. As the petitioner has seen him near the bag, Sri B.Venkateshwarlu lodged a complaint against the petitioner, as if, petitioner committed theft. The management representative contended that, he has seen the petitioner while carrying one bag on his shoulders in the presence of E.Rajaiah. But E.Rajaiah was not examined in the enquiry. However, as admitted by Management Representative, he has obtained a statement from E.Rajaiah on the instructions of Colliery Manager. Therefore, the contention of Management representative is not corroborating with each other. As per the version of Management Representative, petitioner was carrying a bag on his shoulders. When questioned petitioner left the bag at 6L/1D and came back to him and answered his question. Thereafter, when he has enquired about the contents of the bag, petitioner replied, saying that, bag contains fitter tools but on opening the same, it was stated to have found to be copper wire, weighing around 20 Kgs. Thereafter he stated to have arranged the bag to be brought from underground and kept in his room on the surface, with the assistance of E.Rajaiah. This version of Management Representative cannot be treated as theft. Even as per the findings of the enquiry officer. "As per the written complaint by Sri E. Rajaiah and to the reply submitted by charge sheeted employee, it is proved beyond doubt that CSW attempted theft and caught red handed by Management Representative", whereas the charge alleged against the petitioner was committing theft. It is to submit that, there is a it is apparent that only with a view to avoid the possible blame, the management representative implicated the petitioner in the false case, but not otherwise. There is a vast difference between 'attempt to commit theft' and 'committing theft'. The Petitioner having been appointed on 3.9.1993, he has been rendering his sincere

services in the company from more than 16 years. There were no adverse remarks against him during his l6 years of service. It is submitted that, petitioner was made a scapegoat for no fault of him. It is submitted that, dismissal from service is a major punishment, which cannot be imposed without holding proper enquiry. The impugned order was issued in gross violation of principles of natural justice and fair play, as such the impugned order is liable to be set-a-side. His appeal before the Appellate Authority was dismissed, holding that "your contention that enquiry officer has not complied with the guidelines while conducting the enquiry is not correct". The petitioner crave indulgence of this Tribunal to modify the penalty to that of any other lesser penalty, so as to survive himself and to look after his family. Hence, Petitioner prayed to declare the impugned office order No.RG-1/Per/S/46/1708 dt.24/25.3.2009 issued by the 3" respondent and consequential proceeding No.CRP/PER/IR/D/91/465 dt.26.2.2010 issued by the 2nd respondent, as illegal and arbitrary and set aside the same, consequently directing the respondents to re-instate the petitioner into service duly granting all other consequential benefits, such as continuity of service, back wages and all other attended benefits.

3. **The Respondent filed counter denying the averments made by the Petitioner in brief as under:**

It is submitted that the petitioner was dismissed from service on proved charges of theft of taken away about 20 Kgs. of copper wire in a bag while on duty after conducting a detailed domestic enquiry duly following the principles of natural justice. It is submitted that the petitioner was appointed in the Respondent's Company as Badli Filler on 3.9.1993 and appointed as Coal Filler w.e.f. 1.9.1995. Later he was appointed as General Mazdoor w.e.f. 1.9.2005. It is submitted that on 18.2.2008 in General Shift the petitioner deployed to work as LHD Operator at 4D/1L. During the inspection of shift Under Manager along with Sri E.Rajaiah, Mining Sirdar at about 2.35 PM, it was found that the petitioner was found carrying a gunny bag containing about 20 Kgs., of copper wire (Cable Conductor) at 6 L/ID. On enquiry it was revealed that the copper wire was peeled off from the cable and brought from 4D/3L work spot. As his action amounts to misconduct, a charge sheet No.RG.I/GDKTIA/R/006/515, dated 21.2.2008 was issued to him under Company Standing Order No.25.1 & 25.24 which reads as follows:

"**25.1 Theft, fraud or dishonesty in connection with the employer's business or property.**

25.24 Sabotage or causing willful damage to work in progress or to property of the Company."

It is submitted that the petitioner has acknowledged the charge sheet and submitted an explanation dt.27.2.2008 denying the charges which was found to be not satisfactory. An enquiry was ordered vide notice No. RG. I/|1ARO006/549, dated 24.2.2008 fixing the enquiry on 28.2.2008. The enquiry was commenced on 28.2.2008 and concluded on 11.01.2009. The petitioner has fully participated in the enquiry. He was given full and air opportunity to defend his case. Management representative presented the facts of the case along with written complaint dated 20.2.2008 given by Sri E.Rajaiah, Mining Sirdar. It is submitted that the contents of the charge sheet and enquiry procedure were explained in Telugu to both parties. The petitioner was given an opportunity to have assistance in the enquiry to defend his case, but he did not avail the same. The Petitioner was allowed to cross examine the Management representative. The Management Representative produced written complaint dated 20.2.2008 of Sri Erukala Rajaiah, Mining Sirdar in support of his statement. The petitioner denied all the allegations levelled against him during the cross examination. But in his explanation dated 27.02.2008 the petitioner mentioned that he knows about the bag which contains copper wire. The petitioner did not produce any evidence or witness in support of his statement. As there is contradiction in his statement and the reply submitted by him, it is clearly evident that the petitioner is having thorough knowledge about the bag which contains copper wire. As per the written complaint given by Sri Erukala Rajaiah and the reply submitted by the petitioner, it is evident that the petitioner was the only person who entered carrying bag with copper wire through the door at 6 L/ID in underground where he was caught by Sri B.Venkateswarlu, Under Manger, Gdk 11A Incline who is the responsible shift in charge. Thus, the Enquiry Officer held that the charges levelled against the Petitioner was conducted were proved beyond doubt in compliance of principles of natural justice. The 3rd Respondent issued 2nd show cause notice No.RG./Per/S/46/1144, dated 25.2.2009 along with copies of enquiry report and enquiry proceeding to enable him to make representation. The petitioner submitted a representation dated 17.3.2009 which was and found to be not satisfactory. It is submitted that after thorough examination of the case in totality, the Respondents were constrained to dismiss the petitioner from service of the Company w.e.f. 25.03.2009 vide order No.Rg.I/PER/S/46/1708, dated 24/25.3.2009 duly following the procedure under Company's Standing Orders. It is submitted that aggrieved with the Order of penalty of dismissal from service the Petitioner filed W.P.No.7868 of 2009 before the Hon'ble High Court of AP which disposed at the stage of admission on 18.04.2009, giving liberty to the petitioner to file an appeal as per the Standing Orders of the Company within a period of two weeks and the Respondents dispose of the appeal within a period of 8 weeks thereafter. It is submitted that subsequently the petitioner tiled another WP No.l4244 of 2009 seeking directions to set aside the dismissal order which was disposed of with a direction to the 2nd Respondent to dispose of the appeal dated 24.4.2009 pending on his file against the order of termination and pass appropriate orders in accordance with law as expeditiously as possible preferably within a period of six weeks from the date of receipt of this order. In compliance with the Order, the petitioner's appeal dated 24.04.2009 was examined in detail by the Appellate Authority. It is submitted that the contention of the petitioner that the Enquiry Officer has not complied with the guidelines while conducting the enquiry is not correct. It is submitted that after going through the records it is found

that, he has given contradictory statements that in his reply to the charge sheet dated 27.02.2008 mentioning that at 6L/1Dip he has seen one bag containing copper wire, which he has informed to the shift in-charge Shri B.Venkateswarlu, whereas in the cross examination during the enquiry he has pleaded ignorance of any knowledge about the said bag. The above aspect clearly indicates that the petitioner tried to circumvent the evidence to mislead the enquiry and escape from the charge of theft of copper wire. It is submitted that basing on the circumstantial evidence brought out in the enquiry report, it has been established in the enquiry that the petitioner has committed the Act of theft, fraud and dishonesty in connection with Company's property coupled with act which endanger safety of men and material, and is serious in nature. It is submitted that it is clear from the enquiry proceedings that the petitioner had fully participated in the enquiry and he was also issued with 2nd show cause notice along with enquiry proceedings and report which he has acknowledged. He had submitted explanation dated 17.03.2009 which was considered by taking all factual aspects into account and found to be not satisfactory. It is submitted that as it was established that the petitioner has committed theft/fraud of about 20 Kilos of Copper wire by peeling out the cable conductor provided in the Gdk 11A Incline mine installation endangering safety of workmen and equipment and since there were no extenuating circumstances to take lenient view to reinstate him in Company Services by revoking the penalty of dismissal imposed on him, the penalty imposed on him by the disciplinary authority was confirmed vide letter No.CRP/PER/IR/D/9/465, dated 26.02.2010 by the Appellate Authority. It is submitted that the Enquiry Officer has gone through the enquiry proceedings and enquiry report in detail. The contention of the petitioner that the Enquiry Officer has not complied with the guidelines while conducting the enquiry is not correct. As per the Enquiry proceedings and Report, the Enquiry Officer has discussed the evidences let in by the Petitioner, the Management Representative and the circumstantial evidence and based on the material on records has come to conclusion that the charges are proved. It is submitted that after going through the records it is found from the When a person is found guilt of misappropriating the Company funds or theft there is nothing wrong in the Company losing confidence or faith in such a person and awarding a punishment of dismissal. In such cases, there is no place for generosity or misplaced sympathy on the part of the Judicial Forums and interfering therefore with the quantum of punishment. If such persons are allowed to be let-off with light punishment, then that will send a wrong signal to the other persons similarly situated. Hence, it is prayed to dismiss the petition as devoid of merit.

4. The validity of domestic enquiry held neither legal nor justified vide order dated 28.3.2012, directing the Respondent to adduce evidence.

5. Both parties filed written arguments under Sec.11A of the Act.

6. ***Petitioner has placed reliance on the following judgments of the Hon'ble Apex Court and Hon'ble High Court:-***

1. A. Damodar Vs. M/s. Singareni Collieries Company Ltd., & ors. WP No.26615/1997 by Hon'ble High Court of A.P., 2.G. Valli Kumari Vs. Andhra Education Society and Ors. 2010 2 SCC page 497, 3. The General Manager Vs. Sri Mohd. Fareed and another in WP No.816/2004, 4. Delhi Cloth and General Mills Co., vs. Ludh Budh Singh, AIR 1972 SC page 1031, 5. The divisional Electrical Engineer (Operations), AP Transco Limited, Guntur Vs. The Labour Court, Guntur and another, WP No. 24231/2001, 6. S.L. Narasiah Vs. Addl.Indtrl.Tribnl cum Addl. Labour Court, Hyderabad in WP No.17972/2010, 7. K. David Wilson Vs. Secretary to Government, Law Department (Legislative Affairs and Justice), Hyderabad and another 2001(5) ALT 65 (D.B.), 8.Nirmala J. Jhala Vs. State of Gujarat and another 2013 (4) SCC page 301, 9. State of Uttar Pradesh and others Vs. Saroj Kumar Sinha, 2010 (2) SCC page 772.

7. **On the basis of pleadings of both the parties and arguments advanced by the parties following points emerge for determination in the present matter:**

I. Whether the action of management of Singareni Collieries Company Ltd in terminating the petitioner Sri Syed Mahaboob, from the employment vide order dated 26.2.2010 is justified?

II. Whether Petitioner is entitled for reinstatement in the employment of Respondent Management?

III. If not, to what relief petitioner is entitled?

Findings:

8. **Points No.I & II**: The Petitioner has taken the plea that he was initially appointed as badli filler in the Respondent No.1 establishment on 3.9.1993 and after putting up satisfactory service he was confirmed as Coal Filler. Subsequently, the petitioner was converted as General Mazdoor. While so, a change sheet dated 21.2.2008 was issued alleging that, on 18.2.2008 petitioner caught red handed while taking away 20 Kg copper wire (cable conductor) in a bag at 6L/ID. On receipt of charge sheet. petitioner has submitted his explanation on 27.2.2008, pleading that he has not committed any misconduct as alleged in the charge sheet. However, without considering the merits of his explanation, an enquiry was initiated and petitioner was not given any opportunity much less valid in nature. On behalf of management, the Management Representative examined himself and the petitioner's statement was recorded. Neither any witnesses were examined on behalf of the management, nor the petitioner was permitted to examine witnesses on his behalf. Even the procedure of enquiry was also not explained to the petitioner. It is

further submitted that the documents relied upon by the Presenting Officer were not furnished to the Petitioner either before or during the course of enquiry. From the beginning the enquiry officer proceeded with a preconceived notion, as if the petitioner is guilty of charges. Though the petitioner was not aware of the English or Telugu languages proceedings of enquiry were drafted in English and signatures of the petitioner were obtained. It is submitted that if the enquiry officer conducted the enquiry properly, outcome of enquiry would have been different. As a result of improper enquiry, petitioner was put to great prejudice.

9. On the other hand, Respondent has refuted the allegations made by Petitioner regarding proper and fair enquiry and he has contended that enquiry was conducted against the Petitioner violating the principles of natural justice.

10. In the present matter the legality and validity of domestic enquiry has been held neither legal nor valid by the Tribunal vide order dated 28.3.2012 and that has not been challenged by the Petitioner in any higher forum. Thus, the Tribunal's order dated 28.3.2012 has become final as of now.

11. After holding the domestic enquiry not legal and nor valid, the Tribunal posted the case for evidence of Management on 20.6.2012, in order to afford an opportunity to the Management to adduce the evidence to justify its decision of termination of the Petitioner from the service. However, despite being provided with sufficient number of opportunities to adduce the evidence, the Management did not produce any single evidence and did not avail of it. The record of the case goes to reveal that the case was posted for Management evidence on 20.6.2012 and there after, the opportunity of evidence was closed on 14.6.2017. During the period of five years, Management never tried to examine any witness o justify its decision of termination. Further, the arguments of the parties were concluded on 11.4.2023. Even prior to the conclusion of the argument, Respondent Management did not care to produce the evidence in support of his decision. Therefore, the Management was provided sufficient number of opportunities to adduce the evidence in support of his decision. Since, vide order dated 28.3.2012, the Tribunal held the legality and validity of the domestic enquiry as neither legal nor valid, and the decision of termination of the Petitioner from the services was totally based upon the finding of the domestic enquiry, in such circumstances when the domestic enquiry itself has been held not legal and valid , the decision of the Disciplinary Authority in terminating the services of the Petitioner from employment vide order dated 26.2.2010 is itself vitiated and not sustainable in the eye of law.

12. In this regard, **the case law of Cooper Engineering Limited. Vs. P.P. Mundhe 1975 AIR 1900 is relevant, wherein the constitution Bench of Hon'ble Apex Court have held**, "*The question posed at the commencement of our judgment is thus highlighted by the aforesaid observations of the Labour Court and we are required to consider whether after the Labour Court comes to a decision about the inquiry being defective it has any duty to announce its decision in that behalf to enable the employer an opportunity to adduce evidence before it to justify the order on the charge levelled against a workman.*

There is, however.. no doubt that when the employer chooses to do so the workman will have his opportunity to rebut such evidence. There is also no doubt, whatsoever, that if the employer declines to avail of such an opportunity, it will be open to the Labour Court to make an appropriate award and the employer will thereafter be able to make no grievance on that score.

We are, therefore, clearly of opinion that when a case of dismissal or discharge of an employee is referred for industrial adjudication the Labour Court should first decide as a preliminary issue whether the domestic enquiry has violated the principles of natural justice. When there is no domestic enquiry or defective enquiry is admitted by the employer, there will be no difficulty. But when the matter is in controversy between the parties that question must be decided as a preliminary issue. On that decision being pronounced it will be for the Management to decide whether it will adduce any evidence before the Labour Court. If it chooses not to adduce any evidence, it will not be thereafter permissible in any proceeding to raise the issue.. we should also make it clear that there will be no justification for any party to stall the final adjudication of the dispute by the Labour Court by questioning its decision with regard to the preliminary issue when the matter, if worthy, can be agitated even after the final award. It will be also legitimate for the High Court to refuse to intervene at this stage. We are making these observations in our anxiety that there is no undue delay in industrial adjudication."

13. In the case of **State Bank of India vs. RK Jain and others 1972 AIR 136, the Hon'ble Apex Court has held:-**

"We are, therefore, clearly of opinion that when a case of dismissal or discharge of an employee is referred for industrial adjudication the labour court should first decide as a preliminary issue whether the domestic inquiry has violated the principles of natural justice. When there is no domestic inquiry or defective inquiry is admitted by the employer, there will be no difficulty. But when the matter is in controversy between the parties that question must be decided as a preliminary issue. On that decision being pronounced, it will be for the management to decide whether it will adduce any evidence before the labour court. If it chooses not to adduce any evidence, it will not be thereafter permissible in any proceeding to raise the issue.. We should also make it clear that there will be no justification for any party to stall the final adjudication of the dispute by the labour court by questioning its decision with regard to the preliminary issue when the matter, if worthy, can be agitated even after the final award. It will also be legitimate

for the High Court to refuse to intervene at this stage. We are making these observations in our anxiety that there is no undue delay in industrial adjudication."

14. Similarly, in the present matter, the Management was extended sufficient opportunity to justify its' decision for adducing the evidence, but employer declined to avail of such opportunity. Therefore, in the present matter, Tribunal finds that there is no evidence against the Petitioner to find him guilty of the charges levelled against him in the domestic enquiry. In such circumstances, it will be open to the Court to quash the termination order of the Petitioner from service passed by the Respondent Management and employer will thereafter be able to make no grievance on that score.

15. Apart from the above, the Petitioner in Para 5 of the petition has taken the plea that, "Even otherwise also on behalf of the Management, no witness was examined, except recording the deposition of Management representative. The role of Management representative is only to introduce relevant witnesses and relevant documents on behalf of Management, but he cannot be treated as Management representative. Further, in the instant case, solely relying upon the evidence of Management representative the charge was held proved by the Enquiry Officer and Disciplinary Authority simply endorsed laconic approach of the Enquiry Officer as well as Disciplinary Authority is unjustifiable. It is further contended that while holding the Petitioner as guilty, the Enquiry Officer relied upon the alleged statement of Sri E. Rajaiah. But neither Sri E. Rajaiah was examined before the Enquiry Officer nor the alleged statement was marked in the enquiry duly furnishing a copy of the same to the Petitioner. Admittedly, the statement of Sri E. Rajaiah was obtained behind the back of the Petitioner. Therefore, the Enquiry Officer was estopped from relying upon such statement but while relying upon the alleged statement of E. Rajaiah Petitioner was held guilty. Therefore, impugned order is unsustainable in law. "

16. In view of the submission made by the Petitioner, the perusal of the record of the enquiry proceeding goes to reveal that in the charge sheet dated 21.2.2008 issued against the Petitioner, it is mentioned that, "It is brought to the notice of the undersigned that during the inspection of section in charge along with Sri E. Rajaiah, Mining Sirdar at about 2.35pm, you were caught red-handedly while taking away about 20 Kgs of copper wire (Cable Conductor) in a bag at 6L/1D." Whereas, Sri E. Rajaiah, was eye witness of the incident of alleged theft committed by delinquent but reason known best to Enquiry Officer, Sri E. Rajaiah has not been examined during the enquiry to prove the charge against the Petitioner. There is no corroboration of statement of witness, Management representative Sri B. Venkateshwarlu. The record of the enquiry proceeding also goes to reveal that the only Management representative Sri B. Venkateswarlu has been examined during the enquiry proceeding and on the basis of uncorroborated testimony of that witness, the Petitioner has been found guilty of the charge during the enquiry proceeding. Therefore, in view of the above, Respondent Management has not substantiated the charge against the Petitioner, by adducing the cogent and reliable evidence. I find force in the submission of the Petitioner on this count also.

Thus, Points No.I & II are answered accordingly.

17. **Point No.III:** In view of the finding given at Point No.I & II, and in view of the fore gone discussion and law laid down by the Hon'ble Apex Court, this Tribunal is of the opinion that the action of the Management M/s. Singareni Collieries Company Ltd., in terminating the Petitioner Sri Syed Mahaboob from the employment is totally unjustified and illegal and petition of the Petitioner deserves to be allowed. Petitioner is entitled to reinstatement into employment with 50% of the back wages.

Thus, Point No. III is answered accordingly.

ORDER

In view of the finding given in the determination of Points No. I, II and III above, it is held that the action of the respondent management in terminating the services of the petitioner Sri Syed Mahaboob vide order No.CRP/PER/IR/D/91/465 dated 26.2.2010 is not legal, and hence is set aside. Respondent is directed to reinstate the Petitioner into service, with 50% of back wages from the date of termination i.e., 26.2.2010 within two months from the date of receipt of this order.

Award is passed accordingly. Transmit.

Dictated to Smt. P. Phani Gowri, Personal Assistant, transcribed by her and corrected by me on this the 28th day of April, 2023.

IRFAN QAMAR, Presiding Officer

Appendix of evidence

Witnesses examined for the Petitioner	Witnesses examined for the Respondent
NIL	NIL

Documents marked for the Petitioner

NIL

Documents marked for the Respondent

NIL

नई दिल्ली, 2 जून, 2023

का.आ. 958.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार एस.सी.सी.एल. के प्रबंधतंत्र के संबद्ध नियोजको और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण–सह–श्रम न्यायालय, हैदराबाद के पंचाट (संदर्भ संख्या 24/2010) को प्रकाशित करती है, जो केन्द्रीय सरकार को 02.06.2023 को प्राप्त हुआ था।

[सं. एल-22013/01/2023- आई आर (सी. एम-II)]

मणिकंदन. एन, उप निदेशक

New Delhi, the 2nd June, 2023

S.O. 958.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 24/2010) of the Central Government Industrial Tribunal-cum-Labour Court, HYDERABAD as shown in the Annexure, in the industrial dispute between the Management of S.C.C.L. and their workmen, received by the Central Government on 02/06/2023

[No.L- 22013/01/2023-IR(CM-II)]

MANIKANDAN. N, Dy. Director

ANNEXURE

IN THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL -CUM- LABOUR COURT AT HYDERABAD

Present: - Sri Irfan Qamar, Presiding Officer

Dated the 28th day of March, 2023

INDUSTRIAL DISPUTE L.C.No. 24/2010

Between:

Sri K. Srinivasa Rao,
S/o Lakshmaiah,
R/o H.No.16-9-749/1,
Race Course Road, Old Malakpet,
Hyderabad. ..….Petitioner

AND

1. The Chief General Manager,
   M/s. Singareni Collieries Company Ltd.,
   Kothagudem Area, Khammam District.
2. The Manager,
   M/s. Singareni Collieries Company Ltd.,
   VK No.7 incline, Kothagudem,
   Khammam District. ….Respondents

Appearances:

For the Petitioner : M/s. G. Ravi Mohan, Vikas Sharma & K. Bhaskar, Advocates
For the Respondent: Sri S.M. Subhani, Advocate

AWARD

Sri K. Srinivas Rao who worked as General Mazdoor (who will be referred to as the workman) has filed this petition under Sec. 2A(2) of the Industrial Disputes Act, 1947 against the Respondents M/s. Singareni Collieries

Company Ltd., seeking for reinstatement into service duly granting all the consequential benefits such as continuity of service, back wages and all other attendant benefits etc., and such other reliefs as this court may deems fit.

2. **The Brief averments of the claim petition filed by the Petitioner are as under**:

It is submitted that the petitioner was appointed as a General Mazdoor on 27.9.1998. Initially he was posted at Kothagudem- VK- VII Incline. It is submitted that the petitioner has been performing his duties to the utmost satisfaction of his superiors. While the matter stood thus, the petitioner was issued with charge sheet alleging with the following charges:

The above act of yours is misconduct under Company's standing order 25 (25) & 25 (31) which reads as follows:

25(25): Habitual late attendance or habitual absence from duty without sufficient cause.

25 (31): Absence from duty without sanctioned leave or sufficient cause or overstaying beyond sanctioned leave.

It is submitted that the petitioner gave a detailed explanation to the said charge sheet denying the charges that he was fell sick due to Jaundice. Therefore he was not in a position to perform his duties regularly. Inspite of the said explanation the respondent appointed an enquiry officer to conduct enquiry into the charges. During the course of enquiry, the petitioner's statement was taken as an advantage as if the petitioner admitted the charges and the Enquiry Officer made the petitioner guilty of the charges and he was dismissed from service by the proceedings dated 04.10.2007. It is submitted that the action of the Respondent in dismissing the Petitioner's service is illegal, arbitrary and unjust. Petitioner is constrained to approach this Hon'ble Court under section 2 A (2) of Industrial Disputes act, 1947 for necessary relief. The Petitioner has not filed any other application, suit or writ before any court of law for the relief sought herein. It is submitted that admittedly the petitioner was sick and he was not in a position to perform his duties properly as he was suffering from Jaundice and in fact the 2nd respondent the 2nd respondent took the statement of the petitioner as if the petitioner admitted the charge. The respondents are well aware that the petitioner was suffering from Jaundice. The Respondents failed to see that, absenteeism is a minor misconduct and the dismissal is not warranted. The petitioner has served the respondent organization for a period of 9 years without any remarks. Therefore the respondent ought to have appreciated the said fact. It is submitted that the petitioner is the only earning members in the family. It is submitted that due to the illegal termination, the petitioner is facing severe financial difficulties and it has become very difficult to eke out his livelihood. Hence it is prayed to direct the Respondent to reinstate the Petitioner into service with continuity of service, back wages and all other attendant benefits.

3. **The Respondent filed counter denying the averments made by the Petitioner in brief as under:**

It is submitted that as far as the Respondent's Company concerned, it operates the mines and the appropriate government is Central Government. The proper procedure to entertain any Industrial Dispute is after the failure of the conciliation, which has not been done, in the instant case. Straight away the Petitioner has approached the Industrial Tribunal by filing a Petition under Section 2-A (2) of the Industrial Disputes Act which is a not applicable to the Respondent's Company. It is submitted that the petitioner was dismissed from service on proved charges of absenteeism after conducting a detailed domestic enquiry duly following the principles of natural justice. It is submitted that petitioner by his conduct had accepted the misconduct of unauthorized absenteeism and as can be seen from the records he was dismissed vide Order dated 16.11.2007 and he has chosen to file the present case on 23.02.2010 i.e. after a lapse of nearly 2 years, 3 months. Hence the petition is liable to be dismissed on the ground of delay and latches. It is submitted that the Petitioner was appointed as Badli Filler in the Respondent Company on 27.09.1989 and later drafted as General Mazdoor w.e.f. 01.09.1995. The petitioner was issued Charge Sheet No.KGMVK7/RI00/528, dated 27.01.2007 for his absence from duty on various dates during the period from 01.01.2006 to 31.12.2006 without any sanctioned leave or sufficient cause under Company's Standing Order Nos. 25.25 and 25.31 which reads as under:

"25.25: Habitual late attendance or habitual absence from duty without any sufficient cause."

25.31: Absence from duty without sanctioned leave or sufficient cause or overstaying beyond sanctioned leave."

The petitioner acknowledged receipt of the charge sheet on 31.01.2007 and he has submitted his explanation dated 13.04.2007 to the said charge sheet. The explanation submitted by the Petitioner was found to be not satisfactory and as such it was ordered for domestic enquiry by appointing an Enquiry Officer. Accordingly an enquiry notice bearing No. VK/EN/RI00/1138, dated 28.02.2007 was issued advising the Petitioner to appear for the Enquiry on 14.04.2007 at 10.30 AM at the office of Superintendent of Mines, VK.7 Incline, Kothagudem. The petitioner has participated in the enquiry proceedings against the charge sheet and the Petitioner was given full and fair opportunity to conduct his defence. In his statement during the course of enquiry, the petitioner accepted that he remained absent from duty on the dates mentioned in the charge sheet. He added that he remained absent due to his ill-health and his wife's ill-health. He has also accepted that the absence mentioned in the charge sheet correct. As per the findings of the Enquiry Officer, the charges leveled against the petitioner were proved. The petitioner was supplied copies of enquiry report and proceedings vide second show cause notice No. KGM/PER/18/1535, dated 29.05.2007 advising the

petitioner to submit his representation, if any, within seven days from the date of receipt of the said notice. Petitioner received the said notice on 08.06.2007 and submitted his representation dated 12.06.2007 requesting to give him another opportunity to improve himself assuring that he will put 20 actual musters every month and the petitioner did not raise any objections against the findings of the Enquiry officer. The said application was also considered by the Respondent Company and in order to give him an opportunity to improve himself his performance was kept under observation for three months after being counselled on 12.06.2007. Even then the Petitioner failed to improve his performance and the following month-wise musters during observation period.

1. July, 2007 …. 18 musters
2. August, 2007 …. 17 musters
3. September, 2007 …. 11 Musters

The Petitioner did not keep up his promise and assurance and continued to remain absent for his duties unauthorizedly without leave or permission. The Petitioner was an underground employee and should have attended duties more regularly and should have put in a minimum musters of 190 per year. The petitioner had put in the following attendances from the year 2004 to 2007.

Year	Actual Musters
2004	074 days
2005	114 days
2006	039 days

It is clear that the Petitioner is negligent in attending the duties. The Disciplinary Authority has considered the Enquiry Proceedings, Report and also all the material on record and decided to impose the punishment of dismissal from the services of the Company. Accordingly dismissal order dated 16.11.2007 was passed dismissing the petitioner from services. It is submitted that the Respondent Company was not aware that the Petitioner was suffering with Jaundice. If at all the Petitioner's health is not good there is no need for him to absent for his duties, as he could have admitted himself for treatment in any of Colliery Dispensaries, Area Hospitals and at Main Hospital, Kothagudem. As an employee of the Respondent Company it becomes his minimum responsibility to report the fact to the authorities concerned about his sickness and obtain sanctioned leave. A General Mazdoor that too underground employee was expected to put in 190 musters in a calendar year but the petitioner had put in contrary to that rule. The misconduct committed by the petitioner and proved against him is grave and serious in nature. It is submitted that the terminal benefits of the Petitioner have been processed and settled in his favour at his request. It is submitted that the Respondents' Company employs about 67,129 persons, which includes workmen, executives and supervisors. The production results will depend upon the overall attendance and performance of each and every individual. They are inter-linked and inseparable. In this regard, if any one remains absent, without prior leave or without any justified cause, the work to be performed gets affected. Such unauthorized absence creates sudden void, which at time is very difficult to fill-up, and there will be no proper planning and already planned schedules get suddenly disturbed without prior notice. That is the reason why the Respondents' Company is compelled to take severe action against the unauthorized absentees. In the instant case, the Petitioner is one such unauthorized absentee and he did not put in 190 musters in any of the calendar years. Hence, the claim petition be dismissed in limini.

4. The validity of domestic enquiry held legal and valid vide order dated 29.8.2018.

5. Respondent filed written arguments under Sec.11A of the Act.

6. Perused the record.

7. **On the basis of pleadings of both the parties and arguments following point emerging for determination in the matter:**

I. Whether the action of management of Singareni Collieries Company Ltd in termination of the services of petitioner K Srinivas Rao, vide order dated 16th November, 2007 is justified? If not, to what relief petitioner is entitled?

Findings:

8. **Point No.I**: At the outset it would be worth noting that the validity of domestic inquiry has been held legal and valid, vide order dated 29th August, 2018. However, the document pertaining to the inquiry proceedings filed by respondent goes to reveal that the petitioner was given full opportunity at every stage of the proceeding which he availed and he never raised any objection complaining causing any prejudice of any nature to him before the inquiry officer. Further it reveals that he received all the papers/documents and chargesheet and he filed a reply to the charge sheet before the inquiry. He was afforded the cross examination opportunity of the respondent witness and to produce the evidence in defense. Thus, he attended the proceedings at every stage of inquiry. The Enquiry Officer appreciated

the evidence and submitted his reasoned reports, holding the petitioner guilty of charge. Therefore, no case is made out to hold that the domestic inquiry suffers from any procedure lapse or was conducted in violation of the principle of natural justice.

9. Admittedly, Petitioner was appointed as General Mazdoor on 27th September, 1998 and was posted at Kothagudem -VK-7 incline. Due to his long absenteeism from the duty, unauthorizedly, without leave sanctioned, the Respondent served the charge sheet and conducted enquiry against him. On conclusion of enquiry the petitioner found guilty of charges and he was dismissed from service by proceeding dated 4th October, 2007 on the misconduct of absenteeism.

10. The petitioner has assailed the impugned order dated 4th October, 2007 by which his services were terminated, firstly on the ground that he was sick and was not in a position to perform his duties properly as he was suffering from jaundice. The second respondent himself has stated the petitioner to take rest for his disease. But the second respondent took the statement of the petitioner as if the petitioner admitted the charge but in fact the respondents were well aware that the petitioner was suffering from jaundice. In this regard respondent has contended in his counter that respondent company was not aware that the petitioner was suffering from jaundice if at all, the petitioner health is not good there's no need for him to absent from his duties, as he could've admitted himself for treatment in any of the respondent management Collieries dispensary, area hospitals and at near hospital Kothagudem. It is further submitted that as an employee of respondent company it becomes his minimum responsibility to report the fact to the authorities concerned about his sickness and obtain leave sanctioned or get loss of pay leave sanctioned. But the petitioner without following any of the above recourse simply claims that his submission was not considered, therefore the averment of petitioner regarding his illness is a simple statement without supporting any document evidence. The petitioner has never informed that he was absent due to continuous sickness and petitioner is put to strict proof of allegation. It's also submitted that habitual absenteeism for years together by the petitioner is evident from his attendance particulars from 2004 to 2007. He, being an underground employee and more particularly being a General Mazdoor was expected to put in 190 Musters in a calendar year but the petitioner contrary to this had put in only 074, 114, 039 and 073 musters during 2004, 2005, 2006 and 2007 and he claims himself a regular employee and hence the allegation of petitioner in this regard are denied. However, the petitioner couldn't submit any valid documents to substantiate his claims, so the disciplinary authority passed a detailed order with reasons.

11. Admittedly Petitioner has not submitted any medical document pertaining to his illness as he alleges of the Respondent Management hospital where he could have taken treatment of his illness. Further, he did not furnish any explanation as to why he did not took treatment in Management hospital. Moreover, he did not submit any reliable documentary evidence of treatment of his illness and also did not disclose the period of illness or undergoing any treatment in this regard.

12. The perusal of the documents of inquiry proceedings goes to reveal that during the inquiry the petitioner has admitted before the Enquiry Officer in response to Question No. 8 which reads 'Yes I admit the charges and plead guilt as I have remained absent from duty. Further, the statement of petitioner was recorded in the inquiry proceedings wherein he has stated that due to his ill health and wife's ill health he couldn't attend duty regularly during the year 2006, at present his health is improved. He was asked to add anything to his statement but he refused to add anything. Therefore, it reveals that the petitioner didn't produce any documentary evidence or Medical Certificate obtained from competent medical authority to substantiate his allegation of absence due to illness. On this count, the plea taken by the petitioner that due to illness he was absent from duty without sanctioned leave is not tenable. Furthermore, he did not furnish any plausible explanation regarding not intimating the management about the reason of his absence from duty in time. He didn't file any document which could reflect that at any point of time he ever attempted to intimate the reason for his absence from duty to the respondent management. Therefore, in the absence of such documentary evidence the plea taken by the petitioner that he was absent due to illness is not proved and it seems to be an afterthought, and not acceptable.

13. The second plea taken by the petitioner, that the respondent failed to see that absenteeism is a minor misconduct and the dismissal is not warranted. In this regard the respondent has stated in his counter that the allegation of Petitioner that the respondent failed to see that absenteeism is a minor misconduct and dismissal is not warranted is denied and petitioner is put to strict proof of the same. It's also submitted that respondent company employs about 67,129 persons which includes workmen, executives and supervisor. The production results will depend upon the overall attendance and performance of each and every individual. They are interlinked and inseparable. If anyone remains absent without prior leave or without justified cause the work to be performed gets affected. Such unauthorized absence creates a sudden void which at times is very difficult to fill up and there will be no proper planning and the already plan schedule gets suddenly disturbed without prior notice. That's the reason why the respondent company is compelled to take severe action against unauthorized absenteeism. In the instance case the petitioner is one such unauthorized absentee putting 074 musters during 2004, 114 musters during 2005, 039 musters during 2006 and 073 musters during 2007. During the said period of years petitioner didn't put in requisite 190 musters in any of the calendar years. Further it's submitted that the respondent company was constrained to dismiss the petitioner for unauthorized absenteeism w.e.f. 16th November, 2007 due to his habitual conduct of absenteeism. It's also submitted that the company's standing order numbers 25.25 and 25.31 which reads as under:

"25.25: Habitual late attendance or habitual absence from duty without any sufficient cause."

"25.31: Absence from duty without sanctioned leave or sufficient cause or overstaying beyond sanctioned leave."

(i). To fortify his submission the respondent counsel has cited decision of **Hon'ble Apex Court in State of UP and others vs Ashok Kumar Singh and another 1996(1) SCC, Page 302 wherein Apex Court held:-**

"Having noticed the fact that the first respondent has absented himself from duty without leave on several occasions, we are unable to appreciate the High Court's observations that "His absence from duty would not amount to such a grave charge." Even otherwise, on the facts of this case, there was no justification for the High Court to interfere with the punishment holding that "the punishment does not commensurate with the gravity of the charge" especially when the High Court concurred with the findings of the Tribunal on facts. No case for interference with the punishment is made out. The Hon'ble Supreme Court allowed the Appeal."

(ii). Further, **in North Esstern Karnataka Road Transport Corpn. Vs. Ashappa's Case, dated 12.5.2006 the Apex Court while dealing with the case of absenteeism, held that**:-

"...remaining absent for a long time, in our opinion, can not be said to be a minor misconduct. The appellant runs a fleet of busses. For running the busses, the service of the conductor is imperative. No employer running a fleet of busses can allow an employee to remain absent for a long time. The respondent had been given opportunities to resume his duties. Despite such notices, he remained absent. He was found not only to have remained absent for a period of more than 3 years, his leave records were seen and it was found that he remained unauthorized absent on several occasions. In this view of the matter, it cannot be said that the misconduct committed by the respondent herein has to be treated lightly."

(iii). **In Delhi Transport Corporation v. Sardar Singh [(2004) 7 SCC 574], the Apex Court held**:

"Conclusions regarding negligence and lack of interest can be arrived at by looking into the period of absence, more particularly, when same is unauthorised. Burden is on the employee who claims that there was no negligence and/or lack of interest to establish it by placing relevant materials. Clause (ii) of para 4 of the Standing Orders shows the seriousness attached to habitual absence. In clause (i) thereof, there is requirement of prior permission. Only exception made is in case of sudden illness. There also conditions are stipulated, non-observance of which renders the absence unauthorized."

Therefore, in view of the above decision of the Hon'ble Apex Court, the habitual absentee like Petitioner in this case, can not be said as minor misconduct and dismissal is justified punishment.

14. In the present matter the petitioner hasn't contradicted the facts mentioned by the respondent in his counter regarding the attendance of the petitioner on duty from the year 2004 to 2007. Admittedly, actual musters of the petitioner in the year 2004 were 074 days, 2005 were 114 days, 2006 were 039 days and in the year 2007 were 073 days which was much less of requisite musters of 190 days and it also reflects that the petitioner is habitual negligent in attending his duties. Therefore, the plea taken by the petitioner that absenteeism from duty is a minor misconduct and dismissal is not warranted, is not tenable in this case. He was habitual of absenteeism from duty for consecutive 4 years, just preceding from the date of his termination. Although he was given warning and opportunity to improve his muster before his termination order but he failed to improve his conduct as shown from record that he could secure 18 musters in July, 2007, 17 musters in august, 2007 and 11 musters in September, 2007. Thus, he was not able to reform also and punishment of dismissal was imposed upon which is justified.

15. As far as the interference in the order of termination of the petitioner from the service is concerned, **Hon'ble Apex Court in the case of Coal India Ltd vs Mukul Kumar Chaudhary, Civil Appeal No. 5762-5763, date of decision 24th August, 2001, has laid down the test for deciding proportionality of the punishment imposed and held that**:

"One of the test to be applied while dealing with the question of quantum of punishment would be:- Would any reasonable employer have imposed such a punishment in such circumstances? Obviously, a reasonable employer is expected to take into consideration measures, magnitude and degree of misconduct and all other relevant circumstances and exclude irrelevant matters before punishment."

16. Therefore, in view of the law laid down by the **Apex Court in the case of Coal India Ltd vs Mukul Kumar Chaudhary and in the case of State of UP vs Ashok Kumar Singh, held, "***it cannot be said that punishment of termination imposed upon the petitioner by the Respondent for his misconduct of habitual absenteeism is disproportionate or not commensurated to the misconduct committed by petitioner***."** Therefore, there is no ground for interference in the order of termination of the services of the petitioner.

17. An other plea taken by the petitioner is that respondent failed to see that petitioner has served the respondent organization for a period of 9 years without any remarks. Therefore the respondent ought to have appreciated the said

fact and that he is the only earning member in the family and due to his termination petitioner is facing severe financial difficulties and it has become very difficult to take out his livelihood. In this regard, respondent has submitted that respondent is not aware that the petitioner is the sole breadwinner in his family. If it's a fact, the petitioner should've discharged his responsibilities towards his family with more attention by being regular to duties. It's further submitted that the terminal benefits of the petitioner have been processed and settled in his favor at his request. Therefore, in view of the submission made by respondent the plea taken by the petitioner in this regard is not tenable.

18. In **Maharashtra State Road Transport Corporation Vs. Dilip Uttam Jayabhay, the 2022 LLR page 126, wherein the Hon'ble Apex Court held:** "*once the enquiry finding is held to be fair and proper, industrial Tribunal or Labour Court lacks jurisdiction to interfere with the quantum of punishment unless the same is shockingly disproportionate to the gravity of conduct."*

Similarly, in the present matter enquiry finding is held to be fair and proper and due to conduct of Petitioner being habitual absentee, the work of Respondent company suffered a lot and the Respondent was left with no option except to impose the punishment of dismissal of the workman from service. Therefore, in these circumstances, the punishment of dismissal of the Petitioner/workman is commensurate to the misconduct of the Petitioner.

19. In view of the discussion in the foregone paragraphs and law laid down by the Apex Court, the action of the respondent management in terminating the services of the petitioner vide order No.KGM/PER/7/3415 dated 16.11.2007 is found just and legal and the petitioner is not entitled to any relief. The claim petition of the petitioner is unfounded hence liable to be dismissed.

Thus, Point No.I is answered accordingly.

ORDER

In view of the finding given in the determination of Point No. I as above, the action of the respondent management in terminating the services of the petitioner vide order No.KGM/PER/7/3415 dated 16.11.2007 is held just and legal. The claim petition of the petitioner is dismissed.

Award is passed accordingly. Transmit.

Dictated to Smt. P. Phani Gowri, Personal Assistant, transcribed by her and corrected by me on this the 28th day of March, 2023.

IRFAN QAMAR, Presiding Offcier

Appendix of evidence

Witnesses examined for the Petitioner	Witnesses examined for the Respondent
NIL	NIL

Documents marked for the Petitioner

NIL

Documents marked for the Respondent

NIL

नई दिल्ली, 8 जून, 2023

का.आ. 959.— औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार केनरा बैंक के प्रबंधतत्र, संबद्ध नियोजको और उनके कर्मकारो के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, न 1 चंडीगढ़- के पंचाट (77/2022) प्रकाशित करती है।

[सं. एल- 12011/03/2023- आई आर (बी-I)]

सलोनी, उप निदेशक

New Delhi, the 8th June, 2023

S.O. 959.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. 77/2022) of the Cent.Govt.Indus.Tribunal-cum-Labour Court Chandigarh-I as shown in the Annexure, in the industrial dispute between the management of Canara Bank and their workmen.

[No. L- 12011/03/2023-IR**(**B-I)]

SALONI, Dy. Director

ANNEXURE

IN THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT-I, CHANDIGARH.

Present: Sh. J.K. TRIPATHI, Presiding Officer

ID No. 77/2022

Registered on:-17.03.2023

Shri Avnish Khosla, Secretary (Central Body),

Canara Bank, Staff Union and Chairman,

Bank Employees Federation of India, Punjab-140118. ……Workmen-Union

Versus

The General manager, Canara Bank,

Plot No.01, Sector-34/A,

Chandigarh-160022. …..Management

AWARD

Passed on:-23.05.2023

Central Government vide Notification No.L-12011/03/2023-IR(B-I) Dated 08.02.2023, under clause (d) of sub-section (1) of Section 10 of the Industrial Disputes Act, 1947(hereinafter called the Act), has referred the following Industrial dispute for adjudication to this Tribunal:-

> **"Whether the action of management of Canara Bank, Chandigarh in transferring the workman Shri Davinder Singh Jamwal from one Branch (Bishna Branch, District-Jammu) to another branch (Miran Sahib Branch, District Jammu) is proper, legal and justified? If not, what relief the workman is entitled to and from which date and what directions, if any, are necessary in this respect?**

1. On the receipt of the above reference, notice was sent to the workmen-union as well as to the respondent/management. The postal article sent to the workmen-union, referred above, is duly delivered to the workmen-union. The workmen-union has appeared through Sh. Avnish Khosla, Vice President of the workmen-Union, who has filed an application, alleging therein that a settlement has been arrived at between the parties and he do not want to pursue the matter and wants to close the case.

2. Since a settlement has been arrived at between the parties, there is no need to proceed with the matter further.

3. It is now well settled position in law that any settlement arrived at between the parties is legally binding upon both the parties in terms of the provisions of Section 18 of the Industrial Disputes Act, 1947.

4. In view of the application filed by Sh. Avnish Khosla, Vice President of the workmen-Union, the present claim petition is dismissed as settled. The application moved by Sh. Avnish Khosla, Vice President of the workmen-Union shall remain the integral part of the Award.

5. Let copy of the award be sent to the Central Government for publication of the same as required under Section 17(2) of the Act.

J.K. TRIPATHI, Presiding Officer

नई दिल्ली, 9 जून, 2023

का.आ. 960.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार बैंक ऑफ बडोदा के प्रबंधतत्र, संबद्ध नियोजको और उनके कर्मकारो के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, लखनऊ के पंचाट (03/2017) प्रकाशित करती है।

[सं. एल- 39025/01/2023- आई आर (बी -II)-17]

सलोनी, उप निदेशक

New Delhi, the 9th June, 2023

S.O. 960.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. 03/2017) of the Cent.Govt.Indus.Tribunal-cum-Labour Court Lucknow as shown in the Annexure, in the industrial dispute between the management of Bank of Baroda and their workmen.

[No. L- 39025/01/2023-IR(B-II)-17]

SALONI, Dy. Director

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL –CUM- LABOUR COURT, LUCKNOW

Present: Justice ANIL KUMAR, Presiding Officer

I.D. No. 03/2017

BETWEEN

Ram Manorath Verma S/o Shri Swami Nath Verma
Through Sri Parez Alam, Labour Law Advisor
283/63, Kha, Garhi Kanora (Premwati Nagar)
PO-Manak Nagar, Lucknow – 226011

Vs

1. Regional Manger
Bank of Baroda, Regional Office
19, Way Road, Lucknow.

2. Manager
Bareilly Corporation Bank Limited
42, Gautam Budh Marg, Lucknow – 226019

AWARD

The present industrial dispute has been filed by the workman, Ram Manorath Verma before this Tribunal for adjudication as per provisions section 2A of the Industrial Disputes Act, 1947 (14 of 1947).

Case/Submissions on behalf of the petitioner:

Sri Parvez Alam who is authorized representative of the workman submits that the workman, Ram Manorath Verma, was initially appointed as peon in the erstwhile Bareilly Corporation Bank Limited at its Gautam Budh Branch, Lucknow in the year 1991 where he performed his duties honestly as per the directions given by his superior authorities and worked in the said capacity till 07.11.199, thereafter, without any reasonable and justified reasons he was not allowed to work w.e.f. 08.11.1992 on one hand and on the other hand the persons junior to him or similarly situated, Sri Soni, Sri Amar Deep Singh Yadav and Sri P.K. Srivastava who are working in the Bareilly Corporation Bank after merger with the Bank of Baroda were retained in service, thereafter their services have been regularized on fourth-class post.

Being aggrieved by the said action of the Bareilly Corporation Bank Limited thereby not allowing the workman to work and discharge his duties on the post of peon the he approached the Hon'ble High Court by filing a *W.P. No. 8314 (SS) of 1992 Ram Manorath Verma v.* Bareilly Corporation Bank Limited *& others*, disposed of by the means of order dated 03.12.2004, operative portion reads as under:

> *"The learned counsel for the petitioner submitted that the petitioner has completed more than 240 days but the services of the petitioner have been terminated in violation of the mandatory provisions of Section 6-N of the U.P. Industrial Disputes Act. He has further submitted that one junior to the*

petitioner namely Amar Deep Singh Yaday, is still working. This fact has also not been disputed in the counter affidavit filed by the opposite parties.

It has also been submitted by the learned counsel for the petitioner that the case of the petitioner is fully covered with the cases of Shatrughan Nishad & Vs. District Magistrate /Administrator /Chairman, Kisan Sahkari Chini Mills, Sultanpur & others reported in 2000 (2) HVD 203 and Madhur Misra Vs. Industrial Tribunal, U.P. & another reported in 2000 (2) HVD 259 because before terminating the services of the petitioner, the provisions of Section 6-N of the Industrial Disputes Act have not been complied with.

Considering the facts and circumstances of the case, the writ petition is disposed of with the directions that the opposite parties shall examine the case of the petitioner in the light of the observations mentioned in the above case laws and if his case is covered with the aforesaid decisions, they shall take suitable steps for keeping back him in service, in accordance with law, as expeditiously as possible, preferably within a period of 3 months from the date of production of a copy of this order."

Accordingly, on behalf of the workman, it is also submitted that in the pursuance to the order dated 03.12.2004 passed in *W.P. No. 8314 (SS) of 1992* workman had made a representation dated 04.01.2005, considered and rejected by an order dated 28.03.2005 by the Asstt. General Manager (LR), Bank of Baroda.

As the case of workman was wrongly decided by an order dated 28.03.2005, so he made another representation dated 05.07.2011 to the Competent Authority, which was not disposed of so the claimant/workman filed *WP No. 3018 (SS) of 2005 Ram Manorath Verma v Bareilly Corporation Bank Limited*, disposed of by order dated 03.09.2011 with following direction:

"At this stage the petitioner confines his prayer to issue direction to the opposite party No.1 to decide his representation dated 5th of July, 2011. Therefore, without entering into the merit of the case, the writ petition is disposed of finally with the direction to the concerned of opposite party to take a decision on the petitioners' representation within three months after receipt of a certified copy of this order.

In pursuance to the same the case of the claimant/workman has been considered and decided by the Dy. General Manager, Bank of Baroda by an order dated 09.01.2012, which reads as under:

"Kindly refer to the Judgment and Order dated 03.09.2011 passed by Hon'ble High Court, Lucknow Bench, Lucknow in Writ Petition No. 3018(55) of 2005 being instituted by you and your Representations dated 05.07.2011 (being annexed with the Application) & 20.10.2011 (provided with the Copy of Order of the Hon'ble Court) in pursuant thereof.

The Hon'ble High Court while finally disposing of your Writ Petition No. 3018(SS) of 2005 vide Judgement & Order dated 03.09.2011 had directed:

"At this stage the Petitioner confines his prayer to issue direction to the Opposite Party No. 1 to decide his representation dated 5 of July 2011 Therefore, without entering into the merit of the case, the writ petitions disposed of finally with the direction to the concerned Opposite Party to take a decision on the Petitioner's representation within three months after receipt of a certified copy of this order."

You are fully aware that the erstwhile Bareilly Corporation Bank Ltd. has been amalgamated with the Bank of Baroda under an Amalgamation Scheme (your acceptance at paragraph – 3 of your Rejoinder Affidavit is referred to) sanctioned by Government of India, Ministry of Finance, Department of Economic Affairs (Banking Division) in the YEAR 1999 with certain terms and conditions and consequent upon amalgamation of the erstwhile Bareilly Corporation Bank Ltd. (the Transferer Bank) in the Bank of Baroda (Transferee Bank), the erstwhile Bareilly Corporation Bank Ltd. Seize to exist and all Rights and Oligation of the employees of Transferer Bank as on the date of amalgamation vests in Transferee Bank 1.e. BOB, thus, the Transferee Bank is under obligation to take care of all disputes of Transferer Bank.

Despite your assertions in your Rejoinder Affidavit at paragraphs 5, 15 and 20 that "petitioner was the employee of erstwhile Bareilly Corporation Bank Limited hence case of the petitioner only be examined by Bareilly Corporation Bank and not the Bank of Baroda", the Rights and Obligations have been vested in Transferee Bank i.e. Bank of Baroda consequent upon amalgamation of erstwhile Han Corporation Bank Ltd and also view of the aforesaid facts and directions of the Hon'ble High

Court the undersigned being Respondent No 6 has perused and considered all the relevant circumstances and your aforesaid Representation and has to state as follows:

"On perusal of records, Counter Affidavit filed on behalf of the erstwhile Bareilly Corporation Bank Ltd. In the year 1990 in Writ Petition 6314(55) 1992 and list of staff members provided at the time of amalgamation of the erstwhile Barely Corporation Bank Ltd with Bank of Baroda in the year 1999, I find that you had never been employed in the Lucknow Branch of the erstwhile Bareilly Corporation Bank Limited at any time. Further, you have not been able to provide any convincing evidence like letter of appointment, pay slip or the like document to substantiate that there ever existed any relationship of Employer- Employee in between you and the erstwhile Bareilly Corporation Bank Limited.

As far as your claim that one junior to you namely Sri Amar Deep Singh Yadava was retained and allowed to continue is concerned, I have perused the matter relating to said Sri Amar Deep Singh Yadava and found that said Sri Amar Deep Singh Yadava was appointed in the erstwhile Bareilly Corporation Bank Ltd. as Peon against a vacant post after due selection Vide Appointment Letter No. CO/66/PD dated 13 July1994 and he continued in the regular employment of the erstwhile Bareilly Corporation Bank till the date of amalgamation, therefore, the case of Sri Amar Deep Singh Yadava is quite different from your case and can not be compared with in as much as while Sri Amar Deep Singh Yadava was a Sub-Staff in the Rolls of erstwhile Bareilly Corporation Bank Ltd, till the date of amalgamation, you had never been an employee of the erstwhile Bareilly Corporation Bank Ltd., therefore, is a stranger.

In the circumstances, while on the one hand, the provisions of Industrial Disputes Act, 1947 are not attracted at all in your case, on the other hand, ratio of case laws cited by you in your representations dated 05.07.2011 & 20.10.2011 are also not attracted.

Consequently, your claim being devoid of merit and your representations being based on without any substance are rejected and stands disposed of accordingly."

Order dated 09.01.2012 passed by the Dy. General Manager, Bank of Baroda, challenged by the claimant/petitioner by fling WP No. 1185 (SS) of 2012, dismissed by order dated 09.03.2016 reads as under:

"This writ petition has been filed challenging the order dated 9.1.2012 with further prayer to direct the opposite. parties to reinstate the petitioner on the post of Peon with all the consequential benefits including continuity, salary, back wages etc.

Admittedly, the petitioner was employed with the opposite parties for certain period in 1991-1992. He was in the, employment since November, 1992 on a Class IV post

In case the petitioner has any grievance with respect to his discontinuation or termination of service, he has at remedy of raising dispute before the Labour Court. In view of above, the writ petition is dismissed with liberty to the petitioner as aforesaid."

In view of the said factual background, on 13.12.2016 the present adjudication case has been field by the clamant u/s 2A of the Act.

And in support of its case workman/claimant by means of application dated 05.02.2018 (W-10), filed the following documents:

"(1) याचिका सँ० 1185 वर्ष 2012 (एस0एस0) प्रतिलिपि सभी सॅलग्नकों सहित पृष्ठ सं0-1 से 29 तक

(2) याचिका सँ० 1185 वर्ष 2012 (एस0एस0) मे माननीय उच्च न्यायालय लखनऊ पीठ का आदेश दि० 09/03/2016 की प्रतिलिपि पृष्ठ सें0 30 से 31 तक।

(3) सँराधन वार्ता के मध्य सेवायोजक महोदय द्वारा प्रस्तुत लिखित कथन की प्रतिलिपि पृष्ठ सं0 32 से 33 तक।

(4) याचिका सैं0 8314 वर्ष 1992 (एस०एस०) मे माननीय उच्च न्यायालय, लखनऊँ के आदेश दि० 03/12/2004 की प्रतिलिपि पृष्ठ सं0 34 से 38 तक।"

It is also submitted on behalf of the claimant that in addition to the pleadings as well as documentary evidence led by parties on their behalf, oral evidence has also been led i.e. examination of Chief of workman was filed on affidavit on 19.02.2018, he was cross-examined on 31.05.2010 and on behalf of respondent Examination of Chief Sri Rajeev Pradhan retired from the post of Branch Manager, erstwhile Bareilly Corporation Bank Ltd. at G.B. Road Branch, Lucknow who was posted during the period 1991 has been filed; on 02.01.2019 he was cross-examined

Accordingly, Sri Parvez Alam the authorized representative of workman submits that from the cross-examination of Sri Rajeev Pradhan it is established that workman has worked for 240 days in last preceding 12 months prior to retrenchment of his services, and has also not denied the letter written by Sri V.K. Garg, Labour Enforcement Officer, Lucknow which is quoted as under:

> *"That the respondents have not received any notice from the Hon'ble High Court for his appearance on 19-10-92.*
>
> *That in the absence of the above notice from the Hon'ble High Court this office is unable to submit comments.*
>
> *That the Labour Enforcement officer (Central) Lucknow, have visited to Bareilly Corporation Bank on 15-7-92 and observed some violations Committee by the M/ Bareilly Corporation Bank Lucknow under payment of Bonus Act 1965. Some employees like Shri, Sushil Kumar have been deputed on daily rated basis and their attendance have not been recorded in the attendance Registrar. Moreover they have not been allowed to put their attendance on the record though they have worked for more than 240 days in the calendar year. How appointment of Sri Ram Manorath, Sri Soni, Amarjeet Singh Yadava and Shri P. K. Srivastava have also been made after termination the services of Sri Sushil Kumanr Misra looking to the ulterior motive action to the management and in the absence of the record the inspection have no alternate except to relieve the employees have worked more than 240 days to the Calandar year as he has sufficient evidence to prove that he had worked in the Bank for more than 240 days. The Inspection report issued by the inspection under Act 1965 shall be submitted before the Hon'ble high Court as the next date to hearing the other evidence after receipt Hon'ble High Court.*
>
> *It is also requested that notice summon for appearance before the Hon'ble Court may be addressed to the office by name."*

Accordingly, Sri Parvez Alam also submits that as per order dated 03.12.2004, passed by the Hon'ble High Court in *WP No. 8314 of 1992 (SS) Ram Manorath Verma vs. Bareilly Corporation Bank Limited & others*, relevant portion quoted as under:

> "*The learned counsel for the petitioner submitted that the petitioner has completed more than 240 days but the services of the petitioner have been terminated in violation of the mandatory provisions of Section 6-N of the U.P. Industrial Disputes Act. He has further submitted that one junior to the petitioner namely Amar Deep Singh Yaday, is still working. This fact has also not been disputed in the counter affidavit filed by the opposite parties."*

And the case law as laid down in the case of *Divisional Manager, New India Assurance Co. Ltd. v. A. Sankarlingam 2008(119) FLR 398 and Director, Fisheries Terminal Division vs. Bhikubahi Meghajibhai Chavda 2999 (123) FLR 875*, action on the part of the respondent/bank thereby no allowing the workman to work and discharge his duties w.e.f. 08.11.1992 although he has completed more than 240 days in the erstwhile Bareilly Corporation Bank Limited and retaining the persons junior to him is illegal and arbitrary action. So, the respondent/Bank of Baroda may be directed to reinstate the workman with full back wages.

Case/argument on behalf of the respondent:

Shri Sharad Kumar Shukla, learned counsel for the respondents in rebuttal, submits that the applicant was engaged as a courier person through courier agency for the purpose of taking bag and postal article etc. from one branch to another branch. In this regard he has placed reliance on the averment as made in paragraph 20 of the written statement and the said fact were not denied by the claimant/workman.

He further submits that the erstwhile Bareilly Corporation Bank Limited by means of notification dated 01.06.1999 issued by the Government of India, Ministry of Finance, department of Economic Affairs merged into the Bank of Baroda.

Sri Sharad Kumar Shukla also submits that initially in pursuance to the direction issued by the Hon'ble High Court dated 04.01.2005 in WP No. 8314 (SS) of 1992 the case of the workman has been examined, found incorrect, so by order dated 28.03.2005, rejected by Asstt. General Manger (LR) of Bank of Baroda.

And in pursuance to the direction given by Hon'ble High Court dated 03.05.2011, passed in WP No. 3018 (SS) of 2005, petitioner's representations of the claimant/workman dated 05.07.2011 & 20.10.2011 were considered, taking into consideration the material on record, rejected by an order dated 09.01.2012, passed by Dy. General Manager, challenged by the claimant/petitioner by filing WP No. 1185 (SS) of 2012 dismissed by order dated 09.03.2016.

Accordingly, Sri Sharad Kumar Shukla argued that so far as the argument as raised on behalf of the respected that the workman that he was orally engaged for certain period in 1991 and 1992 is not supported by cogent evidence either documentary or oral filed on his behalf before this Tribunal that he has been continuously worked for 240 days prior to termination of his services.

As a matter of fact, and record after amalgamation of Bareilly Corporation Bank Limited with Bank of Baroda the person/employees who are on roll in the Bareilly Corporation Bank Limited their services were taken/merged in the Bank of Baroda in the capacity they were working in the erstwhile Bareilly Corporation Bank Limited, thereafter, as per the Rules and Regulations which governs in regard to the employees working in the Bank, their services were, regularized; however, the case of the claimant/workman does not falls under the said category, so he cannot claim parity with the said persons.

Sri Sharad Kumar Shukla also argued that the reliance which has been from the side of the workman on the documents namely letter of V.K. Garg, Labour Enforcement Officer is a photocopy so the same cannot be read as evidence, unless and until the same is proved by producing the original or by producing the person who has issued the same.

And from the evidence of Sri Rajeev Pradhan on affidavit (dated 02.01.2010), it is clearly established that the workman has not worked for 240 days in the Bank prior to retrenchment of is services or his case is similar to the employees retained in the Bank and he is not entitled for any relief.

Lastly it has been submitted on behalf of respondent that neither by the way of pleadings; documentary or by way of oral evidence the claimant has proved that he has worked continuously for 240 days in last 12 months prior to his retrenchment in erstwhile Bareilly Corporation Bank Limited, which has merged with the Bank of Baroda as alleged by him on the post which belongs to class IV category; as such, he is not entitled for any relief, present case is liable to be dismissed with cost. In support of his case, he has placed reliance on the judgment given by Hon'ble Supreme Court in the case of *Manager, RBI, Bangalore v. S. Mani 2005 CJ (SC) 788*.

Findings and Conclusion:

I have heard the learned counsel for parties and gone through the record.

On the basis of material on record as well as pleadings by the parties and evidence led by them documentary/oral and after hearing argument of learned counsel the position which emerged out is that workman/claimant was orally engaged on Class IV post in the Bank on 01.10.1991, which is evident from the cross examination of the workman/claimant on 19.11.2020, quoted herein below:

"मुझे बैंक द्वारा कोई नियुक्ति पत्र नहीं दिया गया था मैंने किसी नियुक्ति प्रक्रिया में भाग नहीं लिया था मेरा नाम employment exchange में नाम दर्ज था मैंने ना तो High Court के समक्ष अथवा इस न्यायालय के समक्ष दावे में employment exchange में नाम दर्ज होने का कथन नहीं किया है

मैंने employment exchange में नाम दर्ज होने का कोई दस्तावेज दाखिल नहीं किया है मुझे श्री सुनील श्रीवास्तव, Accountant ने काम करने के लिए कहा था मैं सुनील श्रीवास्तव को 01.10.1991 से पूर्व नहीं जानता था 01.10.1991 से पूर्व में बैंक के किसी अधिकारी या कर्मचारी को नहीं जानता था

मैं 01.10.1991 से एक दिन पहले सुनील श्रीवास्तव से उनके घर पर मिलने गया था उन्होंने अगले दिन से काम पर आने के लिए कहा था मैं 01.10.1991 से पूर्व Branch में कभी नहीं गया था

मैंने delay के बाबत दावे में कोई अभिकथन नहीं किया है मैंने जिस writ के आदेश के परिणाम स्वरुप यह दावा पेश किया है वह writ मैंने 2012 में दाखिल की

01.10.1991 से 07.11.1992 तक उस Branch में permanent चपरासी था

मैंने अपने दावे में जूनियर का नाम उल्लेखित किया है गवाह ने दावा देखकर बताया कि नहीं नाम लिखा है"

Thus, the workman/claimant was not engaged/appointed in the Bank as per the Rules; rather engaged by one Shri Sunil Srivastava on 01.10.1991.

The core question is to be considered whether as per the case of the workman he was engaged in the bank from 01.10.1991 to 07.11.1992 and had completed more than 240 days in the last preceding twelve months prior to retrenchment of his services, if so, then the same is in violation to the provisions contained in section 25 F of the Act or not?

On behalf of the workman a letter written by Sri V.K. Garg, Labour Enforcement Officer has been filed in which it is clearly mentioned that on his inspection in the Bareilly Cooperation Bank Limited it was found that the

workman has worked in the erstwhile Bareilly Cooperation Bank Limited (now merged with the Bank of Baroda) for more than 240 days.

No doubt the photocopy of the said letter has been filed by the workman in support of his case, but Sri Rajeev Pradhan, retired Chief Manager, Bank of Baroda who was Branch Head of erstwhile Bareilly Cooperation Bank Limited at G.B. Marg, Lucknow in respect to period in dispute in his cross-examination admitted the letter written by Labour Enforcement Office and also admitted that the Bank has not field any objection against the said letter, W-10/40, which itself goes to show and prove that the claimant has worked for more than 240 days prior to retrenchment of service of the Bank i.e. 01.10.1991 to 07.11.1992.

Thus, from the material on record as well as evidence/oral and documentary it is clearly established that the claimant has been orally engaged without following any procedure on 01.10.1991 and in the said capacity he has worked up till 07.11.1992, thus, he has completed more than 240 days prior to his retrenchment/termination from services, without following the provisions of section 25 F of the Act, thus, termination/retrenchment of services of the claimant/workman was illegal and unjustified; however, the claimant is not entitled for relief of reinstatement as claimed by him because he was engaged in the Bank orally without following any procedure prescribed in this regard in Rules of the Banks.

But entitled for the retrenchment compensation, as per the law laid down by Hon'ble the Apex Court in the case of *Ram Manohar Lohia Joint Hospital & others v. Runna Prasad Saini & another 2021 AIR (SC) 4400*, which reads as under:

> *"9. Therefore, the appointment of the first Respondent was on contractual basis and not to a regular post on proper selection in terms of the rules. Pertinently, the Respondent has not indicated his educational qualifications and whether he has necessary qualifications to work as a nurse or a ward boy. It is also obvious that the contractual term was over. In other words, the first Respondent had worked with the Appellant during the period September, 2003 to June, 2005. He has not worked thereafter. There is nothing on record to show and establish the Appellant had not followed the Rule 'last to come, first to go'. This is neither alleged nor proved.*
>
> *10. In Deputy Executive Engineer v. Kuberbhai Kanjibhai (2019) 4 SCC 307, this Court had referred to several earlier judgments and had quoted with approval the ratio as expounded in Bharat Sanchar Nigam Limited v. Bhurumal (2014) 7 SCC 177, to the following effect:*
>
> > *33. It is clear from the reading of the aforesaid judgments that the ordinary principle of grant of reinstatement with full back wages, when the termination is found to be illegal is not applied mechanically in all cases. While that may be a position where services of a regular/permanent workman are terminated illegally and/or mala fide and/or by way of victimisation, unfair labour practice, etc. However, when it comes to the case of termination of a daily-wage worker and where the termination is found illegal because of a procedural defect, namely, in violation of Section 25-F of the Industrial Disputes Act, this Court is consistent in taking the view that in such cases reinstatement with back wages is not automatic and instead the workman should be given monetary compensation which will meet the ends of justice. Rationale for shifting in this direction is obvious.*
> >
> > *34. The reasons for denying the relief of reinstatement in such cases are obvious. It is trite law that when the termination is found to be illegal because of non-payment of retrenchment compensation and notice pay as mandatorily required Under Section 25-F of the Industrial Disputes Act, even after reinstatement, it is always open to the management to terminate the services of that employee by paying him the retrenchment compensation. Since such a workman was working on daily-wage basis and even after he is reinstated, he has no right to seek regularisation [see State of Karnataka v. Umadevi]. Thus when he cannot claim regularisation and he has no right to continue even as a daily-wage worker, no useful purpose is going to be served in reinstating such a workman and he can be given monetary compensation by the Court itself inasmuch as if he is terminated again after reinstatement, he would receive monetary compensation only in the form of retrenchment compensation and notice pay. In such a situation, giving the relief of reinstatement, that too after a long gap, would not serve any purpose.*
> >
> > *35. We would, however, like to add a caveat here. There may be cases where termination of a daily-wage worker is found to be illegal on the ground that it was resorted to as unfair labour practice or in violation of the principle of last-come-first-go viz. while retrenching such a worker daily wage juniors to him were retained. There may also be a situation that persons junior to him were regularised under some policy but the workman concerned terminated. In such circumstances, the terminated worker should not be denied reinstatement unless there are some other weighty reasons for adopting the course of grant of compensation instead of*

reinstatement. In such cases, reinstatement should be the Rule and only in exceptional cases for the reasons stated to be in writing, such a relief can be denied.

11. This dictum was again followed in State of Uttarakhand and Anr. v. Ray Kumar (2019) 14 SCC 353 and Ranbir Singh v. Executive Eng. P.W.D.

12. In view of the facts stated above, it is clear that the first Respondent was not a permanent employee but a contractual employee. There is no evidence to establish that the Appellant had retained junior workers; such unfair trade practice is not alleged or even argued before us. The first Respondent having worked for more than 240 days, termination of his services violated the mandatory provisions of Section 25F of the Industrial Disputes Act, 1947. Therefore, in the facts of the present case, we modify the order of the Labour Court by setting aside the direction for reinstatement and would enhance the compensation by awarding a lump sum amount.

13. The High Court had stayed reinstatement of the first Respondent but no order Under Section 17B of the Industrial Disputes Act was passed. The first Respondent has, however, filed an application before this Court Under Section 17B to direct the Appellant to pay the "last drawn wages".

14. In view of the aforesaid factual position, we are inclined to award a lump sum compensation of Rs. 10,00,000/- (rupees ten lakhs only) to the first Respondent.

15. The appeal is, accordingly, partly allowed setting aside the direction for reinstatement, which is substituted with the direction of award of lump sum compensation of Rs. 10,00,000/- (rupees ten lakhs only). The said amount would be paid within a period of ten weeks from the date of this order. In case payment is not made within the said period, the Appellant would be liable to pay simple interest @ 0.5% per month from the date of this order till payment is made."

And in the case of *Ranbir Singh v. Executive Eng. P.W.D. 2021 LLR 920*, which reads as under:

"2. The case of the Appellant was that he was working with the Respondent for a period of nearly eight years and service was terminated without complying with Section 25F of the Industrial Disputes Act, 1947 (hereinafter referred to as, 'the Act'). The Labour Court rejected the contention of the Respondent that the Appellant had not worked for 240 days and found that Appellant had indeed worked for 240 days. It is found that there is non-compliance of Section 25F of the Act and the Labour Court awarded reinstatement of the Appellant with 25 per cent back wages. As already noticed, it is this award which is set aside by the High Court.

3. Shri Manjeet Singh, learned Senior Counsel for the Appellant would seek to rely upon the judgment of this Court in Ajaypal Singh v. Haryana Warehousing Corporation (2015) 6 SCC 321. He would further submit that some of persons juniors to him were also dealt with in a different fashion, and in their case, they are working and they have, in fact, been regularised also. Learned Counsel submits that the Appellant should be reinstated in terms of the order of the Labour Court. Per Contra, Shri Samar Vijay Singh, learned AAG for the Respondent pointed out that the acceptance of the contention of the Appellant involved violation of the law laid down by this Court in Secretary, State of Karnataka and Ors. v. Umadevi (3) and Ors. (2006) 4 SCC 1. He still further drew out attention to the decision of this Court in State of Uttarakhand and Anr. v. Raj Kumar (2019) 14 SCC 353 and points out that, in such circumstances, an order of reinstatement may not be justified.

4. It is true that in the Ajay Pal Singh (supra), the Bench of this Court, by judgment rendered in the year 2015, took the view that, when the termination is effected of service of a daily wager, there must be compliance of Section 25F. This Court, in fact, went on also to note that unlike a private body, in the case of a public body, while it may be open to resort to retrenchment of the workmen on the score that there is non-compliance of Articles 14 and 16 in the appointment, in which case, in the order terminating the services, this must be alluded to, it would still not absolve the public authority from complying with the provisions of Section 25F of the Act and, should it contravene Section 25F, it would amount to an unfair trade practice. We do notice, this judgment has been reiterated in a subsequent judgment also in Durgapur Casual Workers Union and Ors. v. Food Corporation of India and Ors. (2015) 5 SCC 786.

5. However, we notice that there is another line of decisions, and the latest of the same, which is brought to our notice by Shri Samar Vijay Singh, learned AAG, is Raj Kumar (supra). We may refer only to paragraphs-9 and 10:

> *9. In our opinion, the case at hand is covered by the two decisions of this Court rendered in BSNL v. Bhurumal [BSNL v. Bhurumal, (2014) 7 SCC 177: (2014) 2 SCC (L&S) 373] and Distt. Development Officer v. Satish Kantilal Amrelia [Distt. Development Officer v. Satish Kantilal Amrelia, (2018) 12 SCC 298: (2018) 2 SCC (L&S) 276].*

10. It is apposite to reproduce what this Court has held in BSNL [BSNL v. Bhurumal, (2014) 7 SCC 177: (2014) 2 SCC (L&S) 373]: (SCC p. 189, paras 33-35)

> *33. It is clear from the reading of the aforesaid judgments that the ordinary principle of grant of reinstatement with full back wages, when the termination is found to be illegal is not applied mechanically in all cases. While that may be a position where services of a regular/permanent workman are terminated illegally and/or mala fide and/or by way of victimisation, unfair labour practice, etc. However, when it comes to the case of termination of a daily-wage worker and where the termination is found illegal because of a procedural defect, namely, in violation of Section 25-F of the Industrial Disputes Act, this Court is consistent in taking the view that in such cases reinstatement with back wages is not automatic and instead the workman should be given monetary compensation which will meet the ends of justice. Rationale for shifting in this direction is obvious.*
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> *34. The reasons for denying the relief of reinstatement in such cases are obvious. It is trite law that when the termination is found to be illegal because of non-payment of retrenchment compensation and notice pay as mandatorily required Under Section 25-F of the Industrial Disputes Act, even after reinstatement, it is always open to the management to terminate the services of that employee by paying him the retrenchment compensation. Since such a workman was working on daily-wage basis and even after he is reinstated, he has no right to seek regularisation [see State of Karnataka v. Umadevi (3) [State of Karnataka v. Umadevi (3), (2006) 4 SCC 1: 2006 SCC (L&S) 753]]. Thus when he cannot claim regularisation and he has no right to continue even as a daily-wage worker, no useful purpose is going to be served in reinstating such a workman and he can be given monetary compensation by the Court itself inasmuch as if he is terminated again after reinstatement, he would receive monetary compensation only in the form of retrenchment compensation and notice pay. In such a situation, giving the relief of reinstatement, that too after a long gap, would not serve any purpose.*
>
> *35. We would, however, like to add a caveat here. There may be cases where termination of a daily-wage worker is found to be illegal on the ground that it was resorted to as unfair labour practice or in violation of the principle of last come first go viz. while retrenching such a worker daily wage juniors to him were retained. There may also be a situation that persons junior to him were regularised under some policy but the workman concerned terminated. In such circumstances, the terminated worker should not be denied reinstatement unless there are some other weighty reasons for adopting the course of grant of compensation instead of reinstatement. In such cases, reinstatement should be the Rule and only in exceptional cases for the reasons stated to be in writing, such a relief can be denied.*

6. In the light of the state of the law, which we take note of, we notice certain facts which are not in dispute. This is a case where it is found that, though the Appellant had worked for 240 days, Appellant's service was terminated, violating the mandatory provisions of Section 25F of the Act. The authority involved in this case, apparently, is a public authority. At the same time, it is common case that the Appellant was a daily wager and the Appellant was not a permanent employee. It is relevant to note that, in the award answering Issue No. 1, which was, whether the termination of the Appellant's service was justified and in order, and if not, what was the amount of back wages he was entitled to, it was found, inter alia, that the Appellant could not adduce convincing evidence to establish retention of junior workers. There is no finding of unfair trade practice, as such. In such circumstances, we think that the principle, which is enunciated by this Court, in the decision, which is referred to in Raj Kumar (supra), which we have referred to, would be more appropriate to follow. In other words, we find that reinstatement cannot be automatic, and the transgression of Section 25F being established, suitable compensation would be the appropriate remedy.

7. In such circumstance, noticing that, though the Appellant was reinstated after the award of the Labour Court in 2006, the Appellant has not been working since 2009 following the impugned order, and also taking note of the fact that the Appellant was, in all likelihood, employed otherwise, also the interest of justice would be best subserved with modifying the impugned order and directing that in place of Rs. 25000/- (Rupees Twenty Five Thousand), as lumpsum compensation, Appellant be paid Rs. 3.25 lakhs (Rupees Three Lakhs and Twenty Five Thousand), as compensation, taking into consideration also the fact that the Appellant had already been paid Rs. 25000/- (Rupees Twenty Five Thousand) as compensation.

8. Accordingly, the appeal is partly allowed. We modify the impugned judgment by directing that over and above, compensation directed of Rs. 3.25 lakhs (Rupees Three Lakhs and Twenty Five Thousand), shall be paid to the Appellant.

9. This will be done within a period of eight weeks from today.

10. The appeal is partly allowed as above. The aforesaid payment shall effectuate a full and final settlement of all claims of the Appellant."

So for as the argument has been raised on behalf of the workman/claimant that he was disengaged from services on 08.11.1992; whereas the persons who are junior to him viz. Sri Soni, Sri Amar Deep Singh Yadav and Sri P.K. Srivastava are being retained in services and later on when the Bareilly Cooperation Bank Limited merged with the Bank of Baroda they were allowed to work in the Bank of Baroda and subsequently their services were regularized in this regard there is no averment in the Claim Petition filed by the claimant.

Once there is no pleading in this regard then in view of the law as laid down by the Hon'ble Apex Court in the case of *V. Prabhakara v. Basavaraj K. (Dead) by L.R. and Ors. (2022) 1 SCC 115*, the relevant portion reads as under:

"CODE OF CIVIL PROCEDURE:

Order VI:

20. Order VI of the Code while defining the word "pleading" makes it applicable on even terms to both a plaint and written statement. Every pleading Under Order VI Rule 2 shall contain a statement of material facts on which a party relies either for his claim or defense. Such a pleading should contain the necessary foundation for raising an appropriate issue. Under Order VIII Rule 2 a Defendant shall make specific pleadings while Under Rule 3 a denial should be specific. Rule 4 prohibits an evasive denial and Rule 5 speaks of consequences of not denying specifically an averment in a plaint leading to presumption of an admission.

A relief can only be on the basis of the pleadings alone. Evidence is also to be based on such pleadings. The only exception would be when the parties know each other's case very well and such a pleading is implicit in an issue. Additionally, a court can take judicial note of a fact when it is so apparent on the face of the record. A useful reference can be made to the following passage in Bachhaj Nahar v. Nilima Mandal, (2008) 17 SCC 491:

> *15. The relevant principle relating to circumstances in which the deficiency in, or absence of, pleadings could be ignored, was stated by a Constitution Bench of this Court in Bhagwati Prasad v. Chandramaul [: AIR 1966 SC 735]: (AIR p. 738, para 10)*
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> > *10. ... If a plea is not specifically made and yet it is covered by an issue by implication, and the parties knew that the said plea was involved in the trial, then the mere fact that the plea was not expressly taken in the pleadings would not necessarily disentitle a party from relying upon it if it is satisfactorily proved by evidence. The general Rule no doubt is that the relief should be founded on pleadings made by the parties. But where the substantial matters relating to the title of both parties to the suit are touched, though indirectly or even obscurely, in the issues, and evidence has been led about them, then the argument that a particular matter was not expressly taken in the pleadings would be purely formal and technical and cannot succeed in every case. What the Court has to consider in dealing with such an objection is: did the parties know that the matter in question was involved in the trial, and did they lead evidence about it? If it appears that the parties did not know that the matter was in issue at the trial and one of them has had no opportunity to lead evidence in respect of it, that undoubtedly would be a different matter. To allow one party to rely upon a matter in respect of which the other party did not lead evidence and has had no opportunity to lead evidence, would introduce considerations of prejudice, and in doing justice to one party, the Court cannot do injustice to another.*
> >
> > *(emphasis supplied)*
>
> *xxx xxx xxx*
>
> *23 [Ed.: Para 23 corrected vide Official Corrigendum No. F.3/Ed.B.J./89/2009 dated 17-7-2009]. It is fundamental that in a civil suit, relief to be granted can be only with reference to the prayers made in the pleadings. That apart, in civil suits, grant of relief is circumscribed by various factors like court fee, limitation, parties to the suits, as also grounds barring relief,*

like res judicata, estoppel, acquiescence, non-joinder of causes of action or parties, etc., which require pleading and proof. Therefore, it would be hazardous to hold that in a civil suit whatever be the relief that is prayed, the court can on examination of facts grant any relief as it thinks fit. In a suit for recovery of rupees one lakh, the court cannot grant a decree for rupees ten lakhs. In a suit for recovery possession of property 'A', court cannot grant possession of property 'B'. In a suit praying for permanent injunction, court cannot grant a relief of declaration or possession. The jurisdiction to grant relief in a civil suit necessarily depends on the pleadings, prayer, court fee paid, evidence let in, etc."

In the case of *Biraji and Ors. v. Surya Pratap and Ors (2020) 10 SCC 729*, the relevant portion reads as under:

"7. Having heard the learned Counsels on both sides, we have perused the impugned orders and other material placed on record. The suit in Original Suit No. 107/2010 is filed for cancellation of registered adoption deed and for consequential injunction orders. In the adoption deed itself, the ceremony which had taken place on 14.11.2001 was mentioned, hence it was within the knowledge of the Appellants-Plaintiffs even on the date of filing of the suit. In the absence of any pleading in the suit filed by the Appellants, at belated stage, after evidence is closed, the Appellants have filed the application to summon the record relating to leave/service of Ramesh Chander Singh on 14.11.2001 from the Rajput Regiment Centre Fatehgarh. It is fairly well settled that in absence of pleading, any amount of evidence will not help the party. When the adoption ceremony, which had taken place on 14.11.2001, is mentioned in the registered adoption deed, which was questioned in the suit, there is absolutely no reason for not raising specific plea in the suit and to file application at belated stage to summon the record to prove that the second Respondent-Ramesh Chander Singh was on duty as on 14.11.2001. There was an order from the High Court for expeditious disposal of the suit and the application which was filed belatedly is rightly dismissed by the Trial Court and confirmed by the Revisional Court and High Court. It is also pertinent to mention, subsequent to dismissal of the application in Application No. 97-C, for summoning the leave/service record of Defendant No. 2, from his place of working that is Rajput Regiment Centre Fatehgarh, by the Trial Court on the ground that there was no such pleading in the suit, the Appellants herein have filed application for amendment of the plaint in an Application No. 103-A, which was dismissed by the Trial Court and said order was confirmed by the District Judge, Ghazipur in Civil Revision No. 58 of 2013 by order dated 03.05.2013. The said order has become final.

8. Though the first application for summoning the record in Application No. 97-C was dismissed by the Trial Court, the Appellants have filed similar application again in Application No. 109-C for the very same relief, which is also rightly rejected by the Trial Court.

9. In our view the reasons recorded in the orders passed by the Trial Court, as confirmed by the Revisional Court and High Court are valid and are in accordance with the settled principles of law. It is clear from the conduct of the Appellants, that in spite of directions from the High Court, for expeditious disposal of the suit, Appellants-Plaintiffs were trying to protract the litigation."

Thus, as per settled position of law, if there is no pleading in respect of a fact then neither any evidence can be lead in respect of the plea which has not been taken nor any benefit can be given to a person.

Moreover, in this regard the claimant/workman has failed to establish and prove by the way of any material/pleading, documentary/ oral evidence, that his case is similarly situated or stand on same footing as of persons, who were retained by the Bank and subsequently their services were regularized so, the argument raised on behalf of the workman/claimant that the action on the part of the respondent bank thereby disengaging the petitioner/terminating the services w.e.f. 08.11.1992 and retaining the said persons in the Bank, later on regularizing their services has got no force and rejected.

For the foregoing reasons, the prayer as made by the workman for reinstatement/regularization of his service is rejected and he is not entitled for the same.

However, looking into the facts of the present case i.e. to say the claimant/workman is litigating his cause before since 1992 when he was disengaged w.e.f. 08.11.1992 till date, the interest of justice would subserve if a retrenchment compensation is paid to the claimant/workman to the sum of Rs. 75,000/- (Rupees Seventy-Five Thousand only), keeping in view the prevailing price of various essential items, in the preset era in order to carry out his livelihood by same or other means.

Accordingly, as the claimant/workman's services have been terminated without following the provisions of section 25 F of the Act, and he has worked for more than 240 days in last 12 months prior to retrenchment/termination of his services by the respondent without following the procedure as provided u/s 25 F of the Act, so the Bank is

directed to pay Rs. 75,000/- (Rupees Seventy-Five Thousand only) to the workman as retrenchment compensation, within two months from, the date of receipt of the copy of this award, failing which clamant is entitled for six percent interest, till the date of actual payment.

Award as above.

Justice ANIL KUMAR, Presiding Officer

नई दिल्ली, 9 जून, 2023

का.आ. 961.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार इलाहाबाद बैंक के प्रबंधतत्र, संबद्ध नियोजकों और उनके कर्मकारो के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, लखनऊ के पंचाट (22/2019) प्रकाशित करती है।

[सं. एल- 12011/10/2019- आई आर (बी-II)]

सलोनी, उप निदेशक

New Delhi, the 9th June, 2023

S.O. 961.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. 22/2019) of the Cent.Govt.Indus.Tribunal-cum-Labour Court Lucknow as shown in the Annexure, in the industrial dispute between the management of Allahabad Bank and their workmen.

[No. L-12011/10/2019 -IR(B-II)]

SALONI, Dy. Director

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL –CUM- LABOUR COURT, LUCKNOW

Present: Justice ANIL KUMAR, Presiding Officer

I.D. No. 22/2019

L-12011/10/2019-IR(B-II) dated 01.05.2019

BETWEEN

The Secretary
Allahabad Bank Staff Association, UP
Vill. Gontauna, PO: Haidergarh
Distt: Barabanki
Lucknow – 225124

AND

The Senior Manager
Allahabad Bank
Zonal Office, Hazratganj
Lucknow

AWARD

As per provisions of clause (d) of sub section (1) and sub section (2A) of Section 10 of the Industrial Disputes Act, 1947 (hereinafter referred to as Act) vide order dated 01.05.2019, following reference has been referred to this Tribunal for adjudication.

> **"WHETHER THE ACTION OF MANAGEMENT OF ALLAHABAD BANK ZONAL OFFICE, LUCKNOW PUTTING IN SUSPENSION WITH EFFECT FROM 19.05.2015 TO SHRI VINDESH KUMAR SINGH, WORKMAN IS WITHIN THE FRAME OF BI-PARTITE SETTLEMENT APPLICABLE TO THE AWARD STAFF OF BANK/ AND IF NOT, WHAT RELIEF THE WORKMAN CONCERNED IS ENTITLED TO?"**

Accordingly, adjudication case No. 22/2019 has been registered before this Tribunal.

Today when the matter was taken up for hearing, Sri Sharad Kumar Shukla, authorized representative of the management today placed on record an order dated 05.03.2019 passed by Chief Manager/Disciplinary Authority by which following punishment has been awarded:

"अतः उक्त प्रकरण पर सभी दृष्टिकोणों से विचार करने के उपरांत मैं अपने विवेक का इस्तेमाल करते हुए इस निष्कर्ष पर पहुंचता हूँ कि आरोपित कर्मचारी के संदर्भित आरोप (Proved) सिद्ध पाये गए। तदनुसार कर्मकारों हेतु अनुशासनिक कार्यवाही की प्रक्रिया, विधि के संबंध में दिनांक 10 अप्रैल 2002 के समझौता ज्ञापन (Memorandum of settlement dated 10.04.2022 on Disciplinary Action Procedure for Workmen) के क्लौज 6(c) के अंतर्गत आप पर 'सेवानिवृत्ति लाभ सहित अनिवार्य रूप से सेवानिवृत्ति हो यानी पेंशन और/या प्रोविडेंट फ़ंड और ग्रैचुइटी जैसा कि प्रासंगिक समय में प्रचलित नियम या विनियमन के अनुसार हो, देय होंगे और भविष्य में रोजगार (Employment) के लिए अयोग्य नहीं होंगे का दंड देता हूँ, जिसे तत्काल प्रभाव से लागू किया जाता है।

आपको यह भी सूचित किया जाता है कि आपको निलंबन अवधि के दौरान प्राप्त किए गए निर्वाह भत्ते के अतिरिक्त कोई भी वेतन, वेतन वृद्धि, परिणामी लाभ आदि नहीं देए होंगे।

Shri Sharad Kumar Shukla, learned counsel for the respondent submitted that copy of the order dated 05.03.2019 has already served upon the workman, and a notice in this regard has been published in Hindustan (Daily Hindi New Paper), a copy of the publication is produced before the Tribunal and kept on record.

Accordingly, he submits that the controversy involved has become infructuous, so the same may be dismissed.

Vindhyes Kumar Singh/claimant, denies the said facts and submits that copy of the punishment order dated 05.03.2019 has been submitted today only. He further submitted that even if the punishment order dated 05.03.2019 has been passed against Vindhyes Kumar Singh in that circumstances the present reference has not become infructuous, the same to be decided on merit.

Because as per reference dated 01.05.2019, the only matter to be adjudication by Tribunal is "whether putting the claimant Shri Vindhyes Kumar Singh in suspension w.e.f. 19.05.2015 is within the frame of bipartite settlement applicable to the award staff of Bank, if not what relief the workman is entitled to."

Accordingly, he submits that as workman Shri Vindhyes Kumar Singh has not been placed under suspension by a competent authority rather by an authority who is junior to the appointing authority so it is a change of service condition against the terms of bipartite settlement, workman is entitled for relief.

I have heard the learned counsel for opposite party and workman, who is present in person.

Accordingly, the core question is to be considered in the present case what is the scope of change of service condition of an employee during his employment under the Industrial Disputes Act, 1947 (hereinafter referred to as Act). The relevant section 9A, 33 and schedule IV of the Act, in this regard, reads as under:

"9A. Notice of change.—No employer, who proposes to effect any change in the conditions of service applicable to any workman in respect of any matter specified in the Fourth Schedule, shall effect such change,—

(a) without giving to the workmen likely to be affected by such change a notice in the prescribed manner of the nature of the change proposed to be effected; or

(b) within twenty-one days of giving such notice:

Provided that no notice shall be required for effecting any such change—

(a) where the change is effected in pursuance of any 2 [settlement or award]; or

(b) where the workmen likely to be affected by the change are persons to whom the Fundamental and Supplementary Rules, Civil Services (Classification, Control and Appeal) Rules, Civil Services (Temporary Service) Rules, Revised Leave Rules, Civil Service Regulations, Civilians in Defence Services (Classification, Control and Appeal) Rules or the Indian Railway Establishment Code or any other rules or regulations that may be notified in this behalf by the appropriate Government in the Official Gazette, apply.

[33. Conditions of service, etc., to remain unchanged under certain circumstances during pendency of proceedings.—(1) During the pendency of any conciliation proceeding before a conciliation officer or a Board or of any proceeding before 1 [an arbitrator or] a Labour Court or Tribunal or National Tribunal in respect of an industrial dispute, no employer shall,—

(a) in regard to any matter connected with the dispute, alter, to the prejudice of the workmen concerned in such dispute, the conditions of service applicable to them immediately before the commencement of such proceeding; or

(b) for any misconduct connected with the dispute, discharge or punish, whether by dismissal or otherwise, any workmen concerned in such dispute,

save with the express permission in writing of the authority before which the proceeding is pending.

(2) During the pendency of any such proceeding in respect of an industrial dispute, the employer may, in accordance with the standing orders applicable to a workman concerned in such dispute 2 [or, where there are no such standing orders, in accordance with the terms of the contract, whether express or implied, between him and the workman],—

(a) alter, in regard to any matter not connected with the dispute, the conditions of service applicable to that workman immediately before the commencement of such proceeding; or

(b) for any misconduct not connected with the dispute, or discharge or punish, whether by dismissal or otherwise, that workman:

Provided that no such workman shall be discharged or dismissed, unless he has been paid wages for one month and an application has been made by the employer to the authority before which the proceeding is pending for approval of the action taken by the employer.

(3) Notwithstanding anything contained in sub-section (2), no employer shall, during the pendency of any such proceeding in respect of an industrial dispute, take any action against any protected workman concerned in such dispute—

(a) by altering, to the prejudice of such protected workman, the conditions of service applicable to him immediately before the commencement of such proceedings; or

(b) by discharging or punishing, whether by dismissal or otherwise, such protected workman,

save with the express permission in writing of the authority before which the proceeding is pending.

Explanation.—*For the purposes of this sub-section, a "protected workman", in relation to an establishment, means a workman who, being 3 [a member of the executive or other office bearer] of a registered trade union connected with the establishment, is recognised as such in accordance with rules made in this behalf.*

(4) In every establishment, the number of workmen to be recognised as protected workmen for the purposes of sub-section (3) shall be one per cent. of the total number of workmen employed therein subject to a minimum number of five protected workmen and a maximum number of one hundred protected workmen and for the aforesaid purpose, the appropriate Government may make rules providing for the distribution of such protected workmen among various trade unions, if any, connected with the establishment and the manner in which the workmen may be chosen and recognised as protected workmen.

(5) Where an employer makes an application to a conciliation officer, Board, 1 [an arbitrator, a] labour Court, Tribunal or National Tribunal under the proviso to sub-section (2) for approval of the action taken by him, the authority concerned shall, without delay, hear such application and pass, 4 [within a period of three months from the date of receipt of such application], such order in relation thereto as it deems fit:]

[Provided that where any such authority considers it necessary or expedient so to do, it may, for reasons to be recorded in writing, extend such period by such further period as it may think fit:

Provided further that no proceedings before any such authority shall lapse merely on the ground that any period specified in this sub-section had expired without such proceedings being completed.]

THE FOURTH SCHEDULE (See section 9A) CONDITIONS OF SERVICE FOR CHANGE OF WHICH NOTICE IS TO BE GIVEN

1. Wages, including the period and mode of payment;

2. Contribution paid, or payable, by the employer to any provident fund or pension fund or for the benefit of the workmen under any law for the time being in force;

3. Compensatory and other allowances;

4. Hours of work and rest intervals;

5. Leave with wages and holidays;

6. Starting, alteration or discontinuance of shift working otherwise than in accordance with standing orders;

7. Classification by grades;

8. Withdrawal of any customary concession or privilege or change in usage;

9. Introduction of new rules of discipline, or alteration of existing rules, except in so far as they are provided in standing orders;

10. Rationalisation, standardisation or improvement of plant or technique which is likely to lead to retrenchment of workmen; 11. Any increases or reduction (other than casual) in the number of persons employed or to be employed in any occupation or process or department or shift, 1 [not occasioned by circumstances over which the employer has no control].

In a field of service jurisprudence an order of suspension has the effect of debarring a Government Servant from exercising powers and discharging the duties of his office for the period the order remains in force.

Suspension from service, marks as an interlude before starting a formal disciplinary action. Some time-gap between placing an employee under suspension and starting a formal departmental proceeding by issue of charge sheet is imperative. On receipt of serious complaints involving moral turpitude and grave misconduct an employee may be placed under suspension pending a preliminary inquiry. After the collection of evidence and taking them in possession, the disciplinary authority may not find any need to keep the employee under suspension and order revocation of suspension.

Hon'ble the Apex Court in the case of *V.P. Gindroniya v. State of Madhya Pradesh AIR 1970 SC 1494* it has been held that there are three kinds of suspension which are known to law:

(a) A public servant may be suspended as a mode of punishment.

(b) He may be suspended during the pendency of an enquiry against him.

(c) He may merely be forbidden from discharging his duties during the pendency of an enquiry against him, which act is also called suspension.

In a case of last type of suspension, the Supreme Court observed that in the absence of a power to suspend, either in the contract of service or in the service rules, the master would have no power to suspend a workman.

Therefore, if he does so, in the sense he forbids the employee to work, he will have to pay the wages for the so called period of suspension.

Where, however, there is power to suspend either in the contract of employment or in the statute, suspension has the effect of temporarily suspending the relationship of master and servant with the consequence that the servant is not bound to render service and the master is not bound to pay.

The rules admit of yet another type of suspension which is called "deemed suspension". In such a case there is no legal necessity to issue an order of suspension in respect of the employee but, by operation of the Service Rules, the employee remains on suspension, i.e. he cannot perform duty nor get his pay. This form of suspension is resorted to when the employee is taken in custody in a criminal action and is kept under custody beyond 48 hours. The effect of a "deemed suspension" is the same like an interim suspension.

In view of above said facts even if that an employee is placed under suspension by an inferior authority is not appointing authority of the employees i.e. to say subordinate authority, it is mere an illegality but it cannot be said that he cannot be placed under suspensions as per rules and further it also amount not a change of service condition of an employee/workman as per provisions of Section 9A and 33 of the Act.

Thus, the submissions made by the workman in the matter is issue has got no force, rejected.

Keeping in view the said facts as well as the fact that in the mater in which the claimant/workman has been placed under suspension the final punishment order dated 05.03.2019 has been passed.

So the present reference is liable to be dismissed.

Accordingly, the present adjudication case/reference is dismissed.

No relief is required to be given to the workman.

Award as above. Justice ANIL KUMAR, Presiding Officer

नई दिल्ली, 9 जून, 2023

का.आ. 962.—औद्योगिक विवाद अधिनियम 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार बैंक ऑफ इंडिया के प्रबंधतत्र, संबद्ध नियोजको और उनके कर्मकारो के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, लखनऊ के पंचाट (39/2019) प्रकाशित करती है।

[सं. एल- 12012/43/2018- आई आर (बी-II)]

सलोनी, उप निदेशक

New Delhi, the 9th June, 2023

S.O. 962.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. 39/2019) of the Cent.Govt.Indus.Tribunal-cum-Labour Court Lucknow as shown in the Annexure, in the industrial dispute between the management of Bank of India and their workmen.

[No. L- 12012/43/2018-IR(B-II)]

SALONI, Dy. Director

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL –CUM- LABOUR COURT, LUCKNOW

Present: Justice ANIL KUMAR**,** Presiding Officer

I.D. No. 39/2019
Ref. No. L-12012/43/2018-IR(B-II) dated 30.10.2018

BETWEEN

Shri Ajay Kumar Sing S/o Sh. Ganga Prasad Singh
House No. 3/55, Shuklaganj
Janpad Unnao (UP) 209861.

AND

1. Managing Director/Chairman
   Bank of India, Nariman Point, Mumbai
2. The Regional Manager
   Bank of India, Kanpur Region
   Regional Office, Kanpur.

3. The Lead District Manager
   Bank of India, Unnao (UP)

AWARD

By order No. L-12012/43/2018-IR(B-II) dated 30.10.2018 the present industrial dispute has been referred for adjudication to this Tribunal in exercise of the powers conferred by clause (d) of sub-section (1) and sub-section (2A) of Section 10 the Industrial Disputes Act, 1947 (14 of 1947) by the Central Government, with following schedule:

> **"kya prabandhan bank of india, kapur va unnao dwara shri ajay kumar singh putra shri ganga prasad ko dinank 07.09.1991 ko naukari se nikala jana jo kathit 29.08.1984 se karyarat hai, nyayochit evam vaidh hai? Yadi nahi to shramik kis raahat ko paane ka haqdaar hai***?"**

Accordingly, an industrial dispute No. 39/2019 has been registered on 16.08.2019.

From the perusal of record, the position which emerge out is that the till date the claimant/workman has not filed any statement of claim.

Moreover, as a matter of fact and record, workman, Ajay Kumar or his authorized representative has not turned up before this Tribunal nor has filed any statement of claim, till date.

Findings & Conclusion:

Taking into consideration the fact that till date no statement of claim has been filed by the claimant in order to establish his claim as per the reference dated 30.10.2018.

So in view of the said facts, as well as the law laid by the Hon'ble High Court in the case of *V. K. Raj Industries v. Labour Court (I) and others 1981 (29) FLR 194* as under:

> *"It is well settled that if a party challenges the legality of an order, the burden lies upon him to prove illegality of the order and if no evidence is produced the party invoking jurisdiction of the Court must fail. Whenever a workman raises a dispute challenging the validity of the termination of service if is imperative for him to file written statement before the Industrial Court setting out grounds on which the order is challenged and he must also produce evidence to prove his case. If the workman fails to appear or to file written statement or produce evidence, the dispute referred by the State Government cannot be answered in favour of the workman and he would not be entitled to any relief."*

In the case of *M/s Uptron Powertronics Employees' Union, Ghaziabad through its Secretary v. Presiding Officer, Labour Court (II), Ghaziabad and others 2008 (118) FLR 1164* Hon'ble Allahabad High Court has held as under:

> *"The law has been settled by the Apex Court in case of Shanker Chakravarti v. Britannia Biscuit Co. Ltd., V.K. Raj Industries v. Labour Court and Ors., Airtech Private Limited v. State of U.P. and Ors. 1984 (49) FLR 38 and Meritech India Ltd. v. State of U.P. and Ors. 1996 FLR that in the absence of any evidence led by or on behalf of the workman the reference is bound to be answered by the court against the workman. In such a situation it is not necessary for the employers to lead any evidence at all. The obligation to lead evidence to establish an allegation made by a party is on the party making the allegation. The test would be, who would fail if no evidence is led."*

And by the Hon'ble Allahabad High Court in the case of *District Administrative Committee, U.P. P.A.C.C.S.C. Services v. Secretary-cum-G.M. District Co-operative Bank Ltd. 2010 (126) FLR 519;* wherein it has been held as under:

> *"The submission is that even if the petitioner failed to lead the evidence, burden was on the shoulders of the respondent to prove the termination order as illegal. He was required to lead evidence first which he failed. A perusal of the impugned award also does not show that any evidence either oral or documentary was led by the respondent. In the case of no evidence, the reference has to be dismissed."*

As the workman has not filed any statement of claim/oral/documentary evidence, so the present case is liable to be dismissed.

For the foregoing reasons, the case is dismissed and; and the workman is not entitled for any relief.

Award as above.

Justice ANIL KUMAR, Presiding Officer

नई दिल्ली, 9 जून, 2023

का.आ. 963.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार इलाहाबाद बैंक के प्रबंधतत्र, संबद्ध नियोजकों और उनके कर्मकारो के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, लखनऊ के पंचाट (21/2019) प्रकाशित करती है।

[सं. एल-12011/49/2017 - आई आर (बी-II)]

सलोनी, उप निदेशक

New Delhi, the 9th June, 2023

S.O. 963.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref.21/2019) of the Cent.Govt.Indus.Tribunal-cum-Labour Court Lucknow as shown in the Annexure, in the industrial dispute between the management of Allahabad Bank and their workmen.

[No. L-12011/49/2017 -IR(B-II)]

SALONI, Dy. Director

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL –CUM- LABOUR COURT, LUCKNOW

PRESENT: Justice ANIL KUMAR**,** Residing Officer

I.D. No. 21/2019

Ref. No. L-12011/49/2017-IR(B-II) dated 25.04.2018

BETWEEN

The General Secretary, Allahabad Bank Staff Association U.P.
C/o Allahabad Bank, Hazratganj Branch
Lucknow – 226001

AND

The Deputy General Manager
Allahabad Bank, Zonal Office, Hazratganj, Lucknow

AWARD

By order No. L-12011/49/2017-IR(B-II) dated 25.04.2018 the present industrial dispute has been referred for adjudication to this Tribunal in exercise of the powers conferred by clause (d) of sub-section (1) and sub-section (2A) of Section 10 the Industrial Disputes Act, 1947 (14 of 1947) by the Central Government, with following schedule:

> **"kya prabandhan allahabad bank dwara staff prashikshan kendra Indira nagar ka 3500 varg feet area par ek stahi full time karmi va 14000 varg feet area mein 04 sthai full time kari ke pad srijit kar niyukt na kiya jana nyayochit evam vaidh hai? Yadi nahi to kaamgaar kis raahat ko paane ka haqdaar hai?"**

Accordingly, an industrial dispute No. 21/2019 has been registered on 16.08.2019.

From the perusal of record, the position which emerge out is that the till date the claimant/workmen's union has not filed any statement of claim.

Moreover, as a matter of fact and record, workmen's union or its authorized representative has not turned up before this Tribunal nor has filed any statement of claim, till date.

Findings & Conclusion:

Taking into consideration the fact that till date no statement of claim has been filed by the claimant/workmen's union in order to establish its claim as per the reference dated 25.04.2018.

So in view of the said facts, as well as the law laid by the Hon'ble High Court in the case of *V. K. Raj Industries v. Labour Court (I) and others 1981 (29) FLR 194* as under:

> *"It is well settled that if a party challenges the legality of an order, the burden lies upon him to prove illegality of the order and if no evidence is produced the party invoking jurisdiction of the Court must fail. Whenever a workman raises a dispute challenging the validity of the termination of service if is imperative for him to file written statement before the Industrial Court setting out grounds on which the order is challenged and he must also produce evidence to prove his case. If the workman fails to appear or to file written statement or produce evidence, the dispute referred by the State Government cannot be answered in favour of the workman and he would not be entitled to any relief."*

In the case of *M/s Uptron Powertronics Employees' Union, Ghaziabad through its Secretary v. Presiding Officer, Labour Court (II), Ghaziabad and others 2008 (118) FLR 1164* Hon'ble Allahabad High Court has held as under:

> *"The law has been settled by the Apex Court in case of Shanker Chakravarti v. Britannia Biscuit Co. Ltd., V.K. Raj Industries v. Labour Court and Ors., Airtech Private Limited v. State of U.P. and Ors. 1984 (49) FLR 38 and Meritech India Ltd. v. State of U.P. and Ors. 1996 FLR that in the absence of any evidence led by or on behalf of the workman the reference is bound to be answered by the court against the workman. In such a situation it is not necessary for the employers to lead any evidence at all. The obligation to lead evidence to establish an allegation made by a party is on the party making the allegation. The test would be, who would fail if no evidence is led."*

And by the Hon'ble Allahabad High Court in the case of *District Administrative Committee, U.P. P.A.C.C.S.C. Services v. Secretary-cum-G.M. District Co-operative Bank Ltd. 2010 (126) FLR 519;* wherein it has been held as under:

> *"The submission is that even if the petitioner failed to lead the evidence, burden was on the shoulders of the respondent to prove the termination order as illegal. He was required to lead evidence first which he failed.*

A perusal of the impugned award also does not show that any evidence either oral or documentary was led by the respondent. In the case of no evidence, the reference has to be dismissed."

As the workmen's union has not filed any statement of claim/oral/documentary evidence, so the present case is liable to be dismissed.

For the foregoing reasons, the case is dismissed and; and the workman is not entitled for any relief.

Award as above.

Justice ANIL KUMAR, Presiding Officer

नई दिल्ली, 9 जून, 2023

का.आ. 964.—औद्योगिक विवाद अधिनियम 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार केनरा बैंक के प्रबंधतत्र, संबद्ध नियोजकों और उनके कर्मकारो के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, लखनऊ के पंचाट (70/2021) प्रकाशित करती है।

[सं. एल-12025/01/2023 - आई आर (बी-II)-18]

सलोनी, उप निदेशक

New Delhi, the 9th June, 2023

S.O. 964.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. 70/2021) of the Cent.Govt.Indus.Tribunal-cum-Labour Court Lucknow as shown in the Annexure, in the industrial dispute between the management of Canara Bank and their workmen.

[No. L-12025/01/2023-IR(B-II)-18]

SALONI, Dy. Director

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL –CUM- LABOUR COURT, LUCKNOW

Present:- Justice ANIL KUMAR**,** Presiding Officer

I.D. No. 70/2021

Ref. No. K-10/1-8/2021-IR Dated 27.05.2021

BETWEEN

Shri Alok Kumar, 142-B, Hasemau, Near Amity University

Gate No. 3, Malhor, Gomti Nagar Extension, Lucknow 226028

AND

1. The Managing Director/Chief Executive Officer, Canara Bank
   Head Office, 112-J.C. Road, Bengaluru – 560002

2. The Deputy General Manager, Cara Bank
   Head Office, RLFP Wing, 112-J.C. Road, Bengaluru – 560002

3. The Assistant General Manager, HRM Section, Canara Bank
   Circle Office, Gomti Nagar, Lucknow – 226010.

AWARD

By order No. K-10/1-8/2021-IR Dated 27.05.2021 the present industrial dispute has been referred for adjudication to this Tribunal in exercise of the powers conferred by clause (d) of sub-section (1) and sub-section (2A) of Section 10 the Industrial Disputes Act, 1947 (14 of 1947) by the Central Government, with following schedule:

"Whether the action of management of Canara Bank in dismissing from services to Shri Alok Kumar, SWO-A w.e.f. 01.01.2020 is legal & justified? If not, to what relief the concerned workman is entitled to?"

Accordingly, an industrial dispute No. 70/2021 has been registered on 02.06.2021.

From the perusal of record, the position which emerge out is that the till date the claimant/workman has not filed any statement of claim.

Moreover, as a matter of fact and record, workman, Alok Kumar or his authorized representative has not turned up before this Tribunal nor has filed any statement of claim, till date.

Findings & Conclusion:

Taking into consideration the fact that till date no statement of claim has been filed by the claimant in order to establish his claim as per the reference dated 27.05.2021.

So in view of the said facts, as well as the law laid by the Hon'ble High Court in the case of *V. K. Raj Industries v. Labour Court (I) and others 1981 (29) FLR 194* as under:

"It is well settled that if a party challenges the legality of an order, the burden lies upon him to prove illegality of the order and if no evidence is produced the party invoking jurisdiction of the Court must fail. Whenever a workman raises a dispute challenging the validity of the termination of service if is imperative for him to file written statement before the Industrial Court setting out grounds on which the order is challenged and he must also produce evidence to prove his case. If the workman fails to appear or to file written statement or produce evidence, the dispute referred by the State Government cannot be answered in favour of the workman and he would not be entitled to any relief."

In the case of *M/s Uptron Powertronics Employees' Union, Ghaziabad through its Secretary v. Presiding Officer, Labour Court (II), Ghaziabad and others 2008 (118) FLR 1164* Hon'ble Allahabad High Court has held as under:

"The law has been settled by the Apex Court in case of Shanker Chakravarti v. Britannia Biscuit Co. Ltd., V.K. Raj Industries v. Labour Court and Ors., Airtech Private Limited v. State of U.P. and Ors. 1984 (49) FLR 38 and Meritech India Ltd. v. State of U.P. and Ors. 1996 FLR that in the absence of any evidence led by or on behalf of the workman the reference is bound to be answered by the court against the workman. In such a situation it is not necessary for the employers to lead any evidence at all. The obligation to lead evidence to establish an allegation made by a party is on the party making the allegation. The test would be, who would fail if no evidence is led."

And by the Hon'ble Allahabad High Court in the case of *District Administrative Committee, U.P. P.A.C.C.S.C. Services v. Secretary-cum-G.M. District Co-operative Bank Ltd. 2010 (126) FLR 519;* wherein it has been held as under:

"The submission is that even if the petitioner failed to lead the evidence, burden was on the shoulders of the respondent to prove the termination order as illegal. He was required to lead evidence first which he failed. A perusal of the impugned award also does not show that any evidence either oral or documentary was led by the respondent. In the case of no evidence, the reference has to be dismissed."

As the workman has not filed any statement of claim/oral/documentary evidence, so the present case is liable to be dismissed.

For the foregoing reasons, the case is dismissed and; and the workman is not entitled for any relief.

Award as above.

Justice ANIL KUMAR, Presiding Officer

नई दिल्ली, 9 जून, 2023

का.आ. 965.—औद्योगिक विवाद अधिनियम 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार बैंक ऑफ बडोदा के प्रबंधतत्र, संबद्ध नियोजकों और उनके कर्मकारो के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, लखनऊ के पंचाट (78/2019) प्रकाशित करती है।

[सं. एल- 12011/35/2019--आई आर (बी-II)]

सलोनी, उप निदेशक

New Delhi, the 9th June, 2023

S.O. 965.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. 78/2019) of the Cent.Govt.Indus.Tribunal-cum-Labour Court

Lucknow as shown in the Annexure, in the industrial dispute between the management of Bank of Baroda and their workmen.

[No. L-12011/35/2019 -IR(B-II)]

SALONI, Dy. Director

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL –CUM- LABOUR COURT, LUCKNOW

Present: Justice ANIL KUMAR**,** Presiding Officer

I.D. No. 78/2019

Ref. No. L-12011/35/2019-IR(B-II) dated 04.10.2019

BETWEEN

The General Secretary, We Bankers Association
128/75, F, Block, Kidwai Nagar, Kanpur (UP) – 208011

AND

1. The Deputy General Manager, Bank of Baroda
Regional Office, 3rd Floor, V-23, Baroda House
Vibhuti Khand, Gomti Nagar, Lucknow – 226010
2. The Branch Manager, Bank of Baroda
Hewett Road Branch, Lucknow.
3. Shir P.S. Jaya Kumar, ME & CEO, Bank of Baroda
Baroda Bhawan, R.C. Dutta Road, Alkapur, Baroda, Gujrat.

AWARD

By order No. L-12011/35/2019-IR(B-II) dated 04.10.2019 the present industrial dispute has been referred for adjudication to this Tribunal in exercise of the powers conferred by clause (d) of sub-section (1) and sub-section (2A) of Section 10 the Industrial Disputes Act, 1947 (14 of 1947) by the Central Government, with following schedule:

> **"Whether the action of the management of Bank of Baroda in dismissing the services of Shri Goldie Shrestha during conciliation proceeding without complying with section 33 (1) of Industrial Disputes Act, 1947 is illegal and unjustified in eye of law? If so, to what relief the concerned workman is entitled to?"**

Accordingly, an industrial dispute No. 78/2019 has been registered on 23.10.2019.

From the perusal of record, the position which emerge out is that the till date the claimant/workmen's union has not filed any statement of claim.

Moreover, as a matter of fact and record, workmen's union or its authorized representative has not turned up before this Tribunal nor has filed any statement of claim, till date.

Findings & Conclusion:

Taking into consideration the fact that till date no statement of claim has been filed by the claimant/workmen's union in order to establish its claim as per the reference dated 04.10.2019.

So in view of the said facts, as well as the law laid by the Hon'ble High Court in the case of *V. K. Raj Industries v. Labour Court (I) and others 1981 (29) FLR 194* as under:

> *"It is well settled that if a party challenges the legality of an order, the burden lies upon him to prove illegality of the order and if no evidence is produced the party invoking jurisdiction of the Court must fail. Whenever a workman raises a dispute challenging the validity of the termination of service if is imperative for him to file written statement before the Industrial Court setting out grounds on which the order is challenged and he must also produce evidence to prove his case. If the workman fails to appear or to file written statement or produce evidence, the dispute referred by the State Government cannot be answered in favour of the workman and he would not be entitled to any relief."*

In the case of *M/s Uptron Powertronics Employees' Union, Ghaziabad through its Secretary v. Presiding Officer, Labour Court (II), Ghaziabad and others 2008 (118) FLR 1164* Hon'ble Allahabad High Court has held as under:

"The law has been settled by the Apex Court in case of Shanker Chakravarti v. Britannia Biscuit Co. Ltd., V.K. Raj Industries v. Labour Court and Ors., Airtech Private Limited v. State of U.P. and Ors. 1984 (49) FLR 38 and Meritech India Ltd. v. State of U.P. and Ors. 1996 FLR that in the absence of any evidence led by or on behalf of the workman the reference is bound to be answered by the court against the workman. In such a situation it is not necessary for the employers to lead any evidence at all. The obligation to lead evidence to establish an allegation made by a party is on the party making the allegation. The test would be, who would fail if no evidence is led."

And by the Hon'ble Allahabad High Court in the case of *District Administrative Committee, U.P. P.A.C.C.S.C. Services v. Secretary-cum-G.M. District Co-operative Bank Ltd. 2010 (126) FLR 519;* wherein it has been held as under:

"The submission is that even if the petitioner failed to lead the evidence, burden was on the shoulders of the respondent to prove the termination order as illegal. He was required to lead evidence first which he failed. A perusal of the impugned award also does not show that any evidence either oral or documentary was led by the respondent. In the case of no evidence, the reference has to be dismissed."

As the workmen's union has not filed any statement of claim/oral/documentary evidence, so the present case is liable to be dismissed.

For the foregoing reasons, the case is dismissed and; and the workman is not entitled for any relief.

Award as above.

Justice ANIL KUMAR, Presiding Officer

नई दिल्ली, 9 जून, 2023

का.आ. 966.—औद्योगिक विवाद अधिनियम 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार भारतीय स्टेट बैंक के प्रबंधतत्र, संबद्ध नियोजकों और उनके कर्मकारो के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय हैदराबाद के पंचाट (48/2002) प्रकाशित करती है।

[सं. एल- 12012/252/2000- आई आर (बी-I)]

सलोनी, उप निदेशक

New Delhi, the 9th June, 2023

S.O. 966.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. 48/2002) of the Cent.Govt.Indus.Tribunal-cum-Labour Court Hyderabad as shown in the Annexure, in the industrial dispute between the management of State Bank of India and their workmen.

[No. L- 12012/252/2000-IR(B-I)]

SALONI, Dy. Director

ANNEXURE

IN THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL CUM LABOUR COURT AT HYDERABAD

Present: Sri IRFAN QAMAR, Presiding Officer

Dated the 30th day of May, 2023

INDUSTRIAL DISPUTE No. 48/2002

Between:

Sri N. Shankara Rao
S/o Laxmaiah,
H.No.1-9-278/47/1,
Balazinagar, Nr. Ramanagar Gundu,
Hyderabad – 44. … Petitioner

And

The Asst. General Manager,
(Personnel & HRD Deptt.)
State Bank of India,
Local Head Office,
Hyderabad-500095. …..Respondent

Appearances:

For the Petitioner : Sri Macharla Rangaiah, Advocate
For the Respondent : M/s. A. Phani Bhushan & B. Ramulu, Advocates

AWARD

The Government of India, Ministry of Labour by its order No. L-12012/252/2000-IR(B.I) dated 16.10.2000 referred the following dispute under section 10(1)(d) of the I.D. Act, 1947 requiring this forum to decide the question:

SCHEDULE

"Whether the action of the management of State Bank of India, Local Head Office, Hyderabad in terminating the services of Shri N. Shankara Rao, Temporary Messenger, by way of oral orders with effect from 31.3.1997 is justified? If not, what relief the workman is entitled?"

Initially, the reference was sent to State Industrial Tribunal, Hyderabad by Ministry of Labour and Employment, New Delhi for adjudication and the same was numbered as ID 140/2000. Subsequently, after inception of this Central Government Industrial Tribunal cum Labour Court, Hyderabad this case was transferred to this tribunal as per the order No. H-11026/1/2001-IR(C.II), dated 18.10.2001 of Ministry of Labour and Employment, New Delhi. After receipt of the case file from Industrial Tribunal-I, Hyderabad it was renumbered as ID 48/2002 and notices were issued to both the workman and the management.

2. Earlier this reference was answered by this Tribunal by a common award dated 17.5.2005, along with other batch cases, and the claim of the workman was dismissed. Workman challenged said award before the Hon'ble High Court vide WP No. 6470/2006 & batch wherein Hon'ble High Court of A.P., vide decision dated 23.6.2014 set aside the common award dated 17.5.2005 passed by Central Government Industrial Tribunal cum Labour Court, Hyderabad and directed the Respondent bank to reengage the workmen in the positions which they had been occupying prior to termination. Being aggrieved by the said order in WP No. 6470/2006 & batch, Respondent bank preferred appeal in WA Nos.1268/2014 and batch cases wherein Division Bench of Hon'ble High Court held:-

"(1) affirming the impugned common order of the learned single Judge to the "extent it sets aside the common award dated 17.5.2005 of the Industrial Tribunal;

(2) The further findings and directions issued through the impugned common order are vacated;

(3) all the matters shall be remitted to the Industrial Tribunal with a direction to dispose of them within an outer limit of five(5) months from the date of receipt of a copy of this order; and,

(4) the parties to make appearance before the Tribunal on the given date."

Hon'ble High Court of Andhra Pradesh in WA No.1268/2014 and other batch, held that, " *Hearing the learned senior counsel for the SBI and the Learned Senior Counsel for the contesting unofficial respondents, we see that while the learned single Judge was justified in setting aside the award of the Tribunal. This we say for reasons more than one. Firstly, in such matters, claims have to be decided on individual basis, as different persons have different claims as to the length of officiation or discharge of duties and functions; quality of engagement, drawings, accounting of the post for each one of them, who have worked etc. All these issues will not be the same in all the cases. Therefore, each case ought to have been directed to be decided by the Tribunal afresh on individual basis. The second and the most important aspect is the learned single Judge has in one go ordered re-employment of all the workmen. This is not a relief that could have been granted without answering the individual issues; each issue relating to each case could not have been decided by the writ Court within the format of its adjudication procedures and scope. The adjudicating body, which has to do that activity, is the Industrial Tribunal. Therefore, we are of the view that while we would sustain the order of the learned singe Judge insofar as it interfered and sets aside the*

award of the Tribunal, the further findings and directions, issued through the impugned order have to go and the individual cases HCJ&ARR,J WA No. 1268 of 2014 & Batch 6 have to be sent back for consideration of the Tribunal. Such further procedure before the Tribunal will have to be carried forward with the materials already on record and also by affording an opportunity to the persons, who have claims as well as the management to place their rival contentions and further material before the Tribunal//The learned counsel appearing for the workmen are justified in pointing out that enormous delay has already happened and further action by the Tribunal in this line may be expedited."

Therefore, in compliance of order dated 20.3.2019 of Hon'ble High Court of A.P., Hyderabad passed in WA No.1268/2014, this Industrial Tribunal conducted hearing proceeding in this reference on individual basis and both parties have been provided of ample hearing opportunity during the proceeding.

The factual matrix of the present industrial dispute is as follows:

3. **The workman filed his claim statement with the averments in brief as follows**:

Petitioner submitted that he studied upto ninth class and he could not continue the education because of poverty. His name was sponsored by employment exchange for a job in the Respondent bank, on 22.9.1986 the Petitioner was asked to attend the interview to be held on 6.10.1986 for the post of messenger. He worked in the accounts Department, Hyderabad, main branch for 70 days as a messenger during the period from 7.10.1986 to 15.10.1986. Further, he submitted that he was asked to attend the interview on 3.7.1989 and his name was included in the panel. He was provided with work as a messenger at Old MLA Quarters branch, Hyderabad for 35 days during 26.7.1996 to 31.8.1996. Again he was provided with work as a messenger in accounts division, Hyderabad main branch for 190 days during the period from 2.9.1996 to 10.3.1997. After that he was provided with work as a messenger at Tirumulgery branch, Secunderabad for 17 days during the period from 15.3.1997 to 31.3.1997, and his last drawn pay was Rs.2640/- per month. It is also submitted that the management has terminated his services on 31.3.1997 suddenly and the management has not issued three months prior notice and also failed to take prior permission from the Government for his retrenchment. The action of the Respondent is illegal and unjust. He has put in unblemished record of service. The Respondent has failed to take into consideration his past conduct and length of service while terminating his services. The entire action of the respondent is arbitrary, one sided, contrary to law and against the principles of natural justice. It is submitted that he is having two school going children and old aged parents and he could not secure any alternative employment inspite of his best efforts. The Petitioner is suffering a lot because of poverty and his innocent family members are starving. The Petitioner further submitted that though there was sufficient work with the respondent the officers have created artificial breaks in his service with a malafide intention to deprive the protection under labour laws. It is submitted that the Petitioner is hailing from Padmashali (weavers community) of the listed backward classes notified by the government. It is submitted that there are several vacancies in the respondent bank and he is willing to work in any capacity to earn his livelihood and to help his family members. As such, the management is not justified in terminating the services of the Petitioner, therefore, it is prayed to pass an award holding that the management has illegally terminated the services of the Petitioner on 31.3.1997 suddenly and direct the Respondent to reinstate him back into service with full back wages, continuity of service and all other attendant benefits.

4. The Respondents filed counter refuting the averments made by the Petitioner in the claim petition, and contention of Respondent in brief runs as follows:

Respondent submitted that the reference itself is not tenable and contrary to the provisions of the Industrial Disputes Act, 1947. The various allegations made in the claim statement are not correct and are hereby denied. The Petitioner is put to strict proof of all the allegations made in his claim statement. The management craves the leave of this Hon'ble Tribunal to submit the entire conspectus of the material facts in brief for proper appreciation of the dispute raised by the Petitioner. It is submitted that to tide over the severe subordinate staff constraints which arose out of leave vacancies, exigencies etc., and also owing to the restrictions imposed by the Government of India/Reserve bank of India on intake of staff, the Respondent bank used to engage subordinate staff i.e., Messengers, Sweepers, Sweeper-cum-Waterboys etc., depending upon the availability of work on a purely temporary basis for smooth and uninterrupted functioning of the branches. It is submitted that the All India State Bank of India Staff Federation which represents majority of the employees in the State Bank of India comprising about 98% of the work force on its' members espoused the cause of temporary employees who have put in less than 240 days of temporary service in 12 calendar months in the bank and who were ineligible for any kind of protection under the Industrial Disputes Act, 1947 and requested the bank to give a chance for being considered for absorption and permanent appointment to such of the temporary employees. The discussions were held between the federation and bank and the issues were discussed in all its aspects and in all its details and accordingly it was felt that it would be just, fair and reasonable(having regard to various circumstances and in the interests of the concerned temporary employees) that a settlement should be reached. Out of the several factors covered under the settlement those which have bearing on the issues under consideration in the present application have been brought out in the following paragraphs for better appreciation of the factual position and brevity.

5. On 17.11.1987, an agreement was signed between the Federation and the management Bank under Section 2(p) read with Section 18(1) of the ID Act, 1947 read with Rule 58 of Industrial Disputes (Central) Rules, 1967.

As per settlement the temporary employees were categorized into three categories, detailed as under:

i) Category 'A' :

Those, who have completed 240 days of temporary service in 12 calendar months or less after 01.07.1975.

ii) Category 'B':

Those, who have completed 270 days aggregate temporary service in any continuous block of 36 calendar months after 01. 07.1975.

iii) Category 'c':

Those, who have completed a minimum of 30 days aggregate temporary service in any calendar year after 01.07.1975 or minimum of 70 days aggregate temporary service in any continuous block of 36 calendar months after 01. 07.1975.

In the 1st settlement, it was agreed that the temporary employees as categorized above would be given a chance for being considered for permanent appointment in the Bank's service against the vacancies which are likely to arise during the period 1987 to 1991. On 16th July 1988, a further agreement was arrived at between the Federation and the Bank where by it was agreed to substitute the period for consideration of vacancies as 1987 to 1992 in place of 1987 to 1991 as contemplated under the 1st settlement dated 17.11.1987 and the agreement was signed by the Federation and the Management Bank under Section 2 (p) read with Section 18(1) of Industrial Disputes Act read with Rule 58 of Industrial Disputes (Central) Rules. A copy of this settlement which hereinafter may be referred to as 2nd settlement of for brevity. On 27th October 1988, a further agreement was arrived at between the Federation and the Management Bank hereinafter referred to as 3rd settlement for brevity agreeing to incorporate the following clause as clause 1-A after clause 1 in the 1st settlement. All persons, who have been engaged in casual basis (as defined in clause 11 (ii) hereunder) to work in leave/casual vacancies of Messengers, Farrashes, Cash Coolies, Water Boys, Sweepers etc., for any of the periods mentioned in category 'A', 'B', 'C' in clause 1 will be given a chance for being considered for permanent appointment in the Bank' s service against vacancies likely to arise from 1988 to 1992. Accordingly, causal/daily wagers were also to be considered for permanent absorption along with temporary employees who were drawing scale wages.

6. Government of India vide its letter dated 16.8.90 issued guidelines to all the public sector banks with regard to absorption of temporary employees in public sector banks. The said guidelines were issued to implement on the lines of the approach paper on the issue provided by a committee constituted in this regard. The Government of India guidelines made it clear that all the public sector banks may follow the provisions laid down in the approach paper. The approach paper specified that the cases of temporary employees who had put in not less than 240 days of temporary service in 12 consecutive months and who are entitled to benefit of Section 25F of the Industrial Disputes Act may be decided by entering into a settlement with the representative union. In respect to temporary employees who had put in less than 240 days of service in 12 consecutive months or less, a settlement could be avoided and however if the Management so desired they could enter into a conciliation settlement with the representative union. In para 6(h) it is mentioned that only those temporary employees who had put in temporary service of 90 days or more days after 1.1.82 would be eligible for considering under the scheme. Although the Government guidelines envisaged for a settlement in respect of temporary employees who had put in temporary service of 90 days or more days, the Bank by way of further concession entered into settlements even in respect of those who had put in less than 90 days.

7. In terms of the settlement dated 17th November, 1987 such of the temporary employees who had worked with the bank during the period from 1st July, 1975 to 31st December, 1987 were to be given a chance for being considered for permanent appointment in the bank service against the vacancies likely to arise. The name of the suitable candidates were to be wait listed and there were three categories of temporary employees carved out - Category A - those who completed 240 days, Category B those who completed 270 days and Category C - those who completed 70 days. The panel of the wait listed candidates was to operate as valid upto 31st December, 1991. In terms of the partial modification vide second settlement dated 16th July, 1988 the date of qualifying service was extended upto 31st July, 1988 instead of 31st December, 1987. An advertisement was issued on 1st August, 1988 pursuant to the aforesaid settlement calling for application from such temporary employees who were paid scale wages (monthly wages). It may be stated that this was done region-wise as there were different vacancies to be filled in different regions. It appears that the Union further sought to canvass the cause of even casual posts or daily wage Workers and this resulted in a third settlement dated 27th October, 1988. Thus, it was decided to consider all candidates against vacancies likely to arise from the year 1988 to 1992 as apparently in some of the circulars the number of vacancies was more than the wait listed temporary scale wage employees though the Chennai circle was an exception to this where the wait listed temporary candidates were more than the available vacancies. The present dispute relates to this Chennai circle.

8. The fourth settlement is said to have been arrived at on 9th January, 1991 where the validity of the panel was extended from 1991 to 1994 whereafter the validity of panel was to lapse on 31.12.1994 and the remaining candidates were to have no claim for whatsoever. In pursuance of the third settlement an advertisement was issued by the bank on 1st May, 1991 calling for applications for causal/daily wagers for being given chance to be considered for permanent appointment. This created a situation where the temporary employees felt threatened if a common list was drawn up. There would naturally not have been any cause for concern were these causal daily wagers put at the end of the list of the temporary employees. Be that as it may, a Writ Petition No.7872 of 1991 came to be filed by the SBI employees Union seeking a relief for operation of the wait list in pursuance of the advertisement dated 1st August, 1988 and simultaneously not to operate any list which may be drawn up in pursuance of the advertisement of 1st May, 1991. Interim stay was granted in respect of the second aspect which continued till 23rd July, 1999 i.e., for a period of more than eight years. The logical consequence of this ought to have been that no list could have been drawn of the casual posts/daily wagers and the list of the temporary employees had to be operated during this period of time. The writ petition was finally disposed of on 23rd July, 1999 by which time the relief in the petition would have worked out.

9. The 5th settlement was arrived at on 30th July, 1996 requiring the panel to be kept alive upto 31st March, 1997 and this was be in respect of the vacancies which became available upto 31st December, 1994.

10. It is submitted that the vacancies as agreed upon were filled with the eligible candidates in the panels and petitioner herein has not put in more number of days than those persons who have been absorbed. It is denied that the petitioner has worked continuously for years as alleged by him. The petitioner who has put in an aggregate temporary service of less than 240 days in a continuous 12 months period during 1.7.1975 to 31.7.1988 had no right to seek a direction to consider his candidature for absorption in the Management bank under any rule/law except under the settlements entered into thereon. In fact, the case of the Petitioner has been considered under the settlements dated 17.11.1987, 16.07.1988, 29.10.1988, 09.01.1991 and 30.07.1996. Having got his/her case considered under the provisions and terms of these settlements, all the other provisions and terms of the settlements are also binding on him/her. The management bank has not violated any of the provisions and terms of the said settlements. It is submitted that the allegations made by the applicant are ill founded, misconceived and are untenable. It is contended that the applicant and the other similarly placed ex-temporary employees do not have nor are they entitled to claim any independent right except basing their claims, if any, under the settlements; for, they do not fall under the protected category of employees as contemplated under the Industrial Disputes Act. Thus, they are entitled to the rights and obligations regulated under such settlements. It is further pertinent to state the very preparation and maintenance or panels is in compliance with the terms agreed to under the settlements. As has been clarified in the earlier paragraphs, settlements under enquiry being expressly time bound and the panels prepared in pursuance thereof having lapsed and ceased to exist as at the end of the designated period viz.31.3.1997, the remaining candidates on the panels including the applicant have no right or claim of whatsoever nature, as against the bank, as was expressly agreed to and undertaken under the settlements. It was never agreed to nor was it the internment under the settlement to keep alive the panels till all the empanelled candidates are absorbed. Such a course is neither envisaged nor feasible. If the petitioner did intend to accept the settlements he should have raised the objection before appearing for interview and consequent empanelment. Having claimed the benefits accrued under the settlements and the consequent empanelment etc., the applicant is debarred and estopped from questioning the validity of settlements. As per the settlement dated 9.1.1991, it has been specifically agreed between the parties that the vacancies arising upto December, 1994 will be filled from 1989 panel on the basis of seniority. Thereafter, the said panel stood lapsed and the remaining candidates have no claim of whatsoever nature for being considered for permanent absorption in the bank. According to the above settlements, the panels of daily wages enlisted under 1992 panel will be used for filling vacancies which may arise upto the end of 1994. Thereafter, the said panel also shall stand lapsed and the remaining candidates wait listed therein will have no claim of whatsoever nature for being considered for permanent absorption in the Bank. It is submitted that the stipulated temporary service rendered during the period from 1.1.1975 to 31.7.1988 is only to be taken for permanent absorption and number of days worked subsequent to this period are not counted as per the agreements since the panels were already lapsed on 31.3.97 and since the vacancies were already filled up by absorbing temporary attendants and the daily wagers/casual employees respectively in the order of their seniority in the empanelment engaging their services does not arise. It is submitted that the persons who do not have the requisite number of days as per the agreements, they cannot be considered for permanent absorption. It is further submitted that the bank has never promised that all candidates in the panel will be absorbed. In the advertisement itself it was made clear that candidates wil1 be considered for absorption in the vacancies that may arise upto 1992.

11. It is further submitted that basing on the terms of settlements arrived between the Federation and the management Bank, the vacancies have been identified and the ex.temporary employees in the panels were absorbed on the basis of seniority. The mere empanelment of the petitioners will not give any right for absorption in favour of the petitioners. The further averment that keeping alive the panels after 31.3.1997 is contrary to the settlements arrived between the State Bank of India Staff Federation and the management bank.

12. It is submitted that in terms of the provisions contained under the Industrial Disputes Act, the State Bank of India and All India State Bank of India Staff Federation have entered into settlements and hence they have the force of

law and are binding on the parties. Besides, the fact remains that by virtue of their being on the panel, the settlements have been duly acted upon by the applicants. Consequently, the present applicant is also bound by the terms of such settlements, for, the very maintenance of panels is inconsequence to the terms agreed under such settlements. As the terms of the settlement have been strictly adhered to by the Bank, the allegations made and the relief sought under this claim application is wholly untenable, misconceived, devoid of merits. The settlements do not admit of any ambiguity in that their language is clear.

13. The present application is admittedly based on the settlements alone and not based on any independent right to seek regularization and much less under any provision of the Industrial Disputes Act. The panels under the settlements were expressly made time bound. It is submitted that this was an integral term of the settlement and cannot be modified in any proceedings under the law. In the circumstances, those temporary employees who unfortunately could not be accommodated for want of vacancies have no further rights to be considered for regularization either under the settlements or otherwise. The bank has complied with the settlements in letter and spirit. The circulars and letters referred to in the claim statement were mere directives to ensure that the pernicious practice of engaging temporary employees is discontinued. This was in fact a term of the settlements itself.

14. It is submitted that some writs were filed by certain temporary employees who were also called for interview and empanelled. In writ petition No.12964/94, the Hon'ble High Court went into the similar contentions in details and the learned judge also referred to the settlements and subsequently held that the Petitioners therein were not entitled for any relief and the only relief they can claim is enforcement of settlements, if there is any right flowing from it or it has been violated. The relevant operative portion of the said judgement is as follows:

"It is needless to state that the settlement arrived at between the All India State Bank of India Staff Federation which is the majority union and the bank management is binding on the petitioners also. It is not, at all the case of the petitioner that any of the terms of the settlement has been violated by the bank's management. If the Petitioner had worked in the bank on part-time basis before 31.5.94, that itself would not vest in him a right to claim that his services should be regularized on permanent basis against a full time cadre post. The claim put forth by the Petitioner in the present petition is therefore misconceived and not tenable. However, it is open to the Petitioner to claim any right which flows form the settlement between the union and the bank management. As already pointed out that it is not the grievance of the Petitioner that some right which has flown from the settlement in favour of the Petitioner has been denied by the bank management. Therefore, I domestic enquiry not find any ground, let alone substantial ground, to grant the kind of relief sought for by the Petitioner. Writ petition fails and is accordingly dismissed. No costs."

15. Respondent contended that the settlements contemplate that the panels would cease to exist at the end of designated period and also that there would be no further temporary recruitment of employees or recruitment as casual workers. In no event did the settlements suggest that the temporary employees could be continued indefinitely and the relief sought by the applicant in the instant case, if permitted, would result in making the practice of temporary employment permanent through back door entry which would not only be contrary to the settlements but also to the Articles 14 and 16 of the Constitution, and deprive the chances of rightful claimants who would if necessary come through proper recruitment procedure. The settlements were made as one time measure to bring about an end to the practice of such engagement. The rights of the applicant herein were crystallized by operation of the settlements. As such, there is no question of any legitimate expectation or estoppel; for, neither of these can be superior to nor improve upon contractual rights specially those arising out of an industrial settlement. Further, no statement or representation was made by the Bank at any point of time that permanently appointed in the Bank in fact in the advertisement issued pursuant to the first settlement in response to which applications were submitted by the applicant and the panels were prepared, it was clearly enumerated that a chance for being considered for permanent appointment shall be given to those temporary employees found suitable and shall be wait-listed and their appointment shall be subjected to the vacancies and the wait list be valid till 1991.

16. It is also submitted that the similarly placed ex-temporary employees in the panels filed writ petition No.9206/97 and the batch before the Hon'ble High Court of Andhra Pradesh. The learned Single Judge, allowed the writ petitions. Aggrieved by the order of the Single Judge, the bank preferred writ appeal No.86/98 and the batch against the said judgement. The Division Bench of Hon'ble High Court of Andhra Pradesh allowed the writ appeals filed by the bank setting aside the order of the Single Judge. Thereafter, the ex-temporary employees filed Special Leave Petition No. 11886-11888 of 1998 before the Supreme Court of India. The Hon'ble Supreme Court of India also dismissed the Special Leave Petitions. Therefore, reference to the judgement of learned Single Judge in WP No.9206/1997 is of no consequence as the same was already set aside. The observations made in the judgement cannot be relied upon for any purpose, whatsoever and therefore the same be ignored. It is submitted that the Petitioner has not worked for 240 days in any preceding 12 calendar months period. Therefore, reference to Section 25F of the Industrial Disputes Act is not relevant. The Petitioner has not worked for the number of days as shown by him in his claim statement. He is put to strict proof of all the allegations made by him, in his claim statement as regards his service and educational qualifications. The allegation that he was terminated from service is not correct. As already submitted the vacancies were filled up, on regular basis in the order of their respective seniority and non-

engagement of the Petitioner does not amount to termination. No law provides that even though there is no work, temporary employee should be continued in bank work , as the very engagement of the Petitioner was subject to availability of work. The allegation that the bank had indulged in unfair labour practice is not correct. It is submitted that the settlements are binding on the Petitioner and the said settlements have been fully implemented. There is no violation of any of the provisions of the Industrial Disputes Act. There is no termination at all and therefore, the reference itself is unwarranted and the same is illegal. The issue is covered by various judgements of the Hon'ble Supreme Court of India and the Hon'ble High Courts. There are absolutely no merits in the Industrial Dispute raised by the Petitioner and the same is liable to be dismissed.

17. **On the basis of pleadings and arguments advanced by both the parties following points emerge for determination in the present matter**:-

I. Whether the action of the respondent management in terminating the services of petitioner workman with effect from 31st March 1997 is in violation of provision of section 25F of industrial dispute act 1947 and the same is liable to set aside?

II. Whether the petitioner workman is entitled for reinstatement into the service of respondent management as he alleges in his petition?

III. Whether petitioner workman is entitled for regularization in terms of various settlements arrived at between the Respondent bank and federation of employees?

IV. To what relief if any petitioner is entitled?

Findings

18. Point I & II:- The petitioner (will be called herein workman) has taken the plea that his name was sponsored by employment exchange for a job in the respondent bank on 22nd September, 1986 and he was asked to attend the interview on 6th October, 1986 for the post of messenger. Further he states that he worked in the accounts department Hyderabad Main Branch for 70 days as a messenger during the period from 7th October 1986 to 15th October, 1986. Further, he was provided with work as a messenger at old MLA Quarter Branch Hyderabad for 35 days during 26th July 1996 to 31st Aug 1996. Again he was provided with work as a messenger in the Main Branch for 190 days during the period 2nd September, 1996 to 10th March, 1997 and again he worked at Tirumalagiri Branch, Secunderabad for 17 days during the period 15th March 1997 to 31st March 1997. He states that management has terminated his services on 31st March 1997 suddenly and it has not issued 3 months notice and also failed to take prior permission from the government for his retrenchment. Thus the above action of the management is illegal and unjustified. It is further submitted that there was sufficient work with the respondent but officers have created artificial breaks in his service with a malafide intention to deprive the protection under labor laws. In support of his averment he has filed documents Exhibit W1 to Exhibit W10 in evidence and also examined himself as WW1.

19. On the other hand, respondent contended that petitioner has not put in aggregate temporary service for 240 days in a continuous 12 months period as required under the provision of section 25F and 25B of industrial dispute act. Therefore, he is not entitled for reinstatement for violation of provision of section 25F of ID Act.

20. Before examining the plea taken by Petitioner in the light of evidence it would be apposite to mention the relevant provisions under on the aspect in the Industrial Dispute Act, 1947 as well decisions of the Apex Court laid down in this context.

Section 25F provides:-

Conditions precedent to retrenchment of workmen.- No workman employed in any industry who has been in continuous service for not less than one year under an employer shall be retrenched by that employer until—

(a) the workman has been given one month' s notice in writing indicating the reasons for retrenchment and the period of notice has expired, or the workman has been paid in lieu of such notice, wages for the period of the notice:

(b) the workman has been paid, at the time of retrenchment, compensation which shall be equivalent to fifteen days' average pay for every completed year of continuous service] or any part thereof in excess of six months; and

(c) notice in the prescribed manner is served on the appropriate Government or such authority as may be specified by the appropriate Government by notification in the Official Gazette].

Compensation to workmen in case of transfer of undertakings.

Section 25B defines the term continuous service which provides

Definition of continuous service.- For the purposes of this Chapter,--

(1) a workman shall be said to be in continuous service for a period if he is, for that period, in uninterrupted service, including service which may be interrupted on account of sickness or authorized leave or an accident or a strike which is not illegal, or a lock- out or a cessation of work which is not due to any fault on the part of the workman;

(2) where a workman is not in continuous service within the meaning of clause (1) for a period of one year or six months, he shall be deemed to be in continuous service under an employer--

(a) for a period of one year, if the workman, during a period of twelve calendar months preceding the date with reference to which calculation is to be made, has actually worked under the employer for not less than--

(i) one hundred and ninety days in the case of a workman employed below ground in a mine; and

(ii) two hundred and forty days, in any other case;

21. As regards the question of burden of proof to prove mandatory condition of 240 days of continuous service in 12 months in a calendar year just preceding from the date of termination is concern, Hon'ble Apex court has laid down principle in number of decisions as follows:

In Rajasthan State Ganganagar S. Mills Ltd. v. State of Rajasthan and Anr. (2004) Apex Court held:

"It was the case of the workman that he had worked for more than 240 days in the year concerned. This claim was denied by the appellant. It was for the claimant to lead evidence to show that he had worked for 240 days in the year preceding the date of his termination. He has filed an affidavit. It is statement which is in his favor and that cannot be regarded as sufficient evidence for any Court or Tribunal to come to the conclusion that in fact the claimant had worked for 240 days in a year These aspects were highlighted in Range Forest Officer v. S.T. Hadimani (2002 (3) SCC 25. No proof of receipt of salary or wages for 240 days or order or record in that regard was produced. Mere non-production of the muster roll for a particular period was not sufficient for the Labour Court held that the workman had worked for 240 days as claimed."

In Municipal Corporation, Faridabad v. Siri Niwas (2004 (8) SCC 195), held "*the burden was on the workman to show that he was working for more than 240 days in the preceding one year prior to his alleged retrenchment." In M.P. Electricity Board v. Hariram (2004 (8) SCC 246) the position was again reiterated in paragraph 11 as follows: "The above burden having not been discharged and the Labour Court having held so, in our opinion, the Industrial Court and the High Court erred in basing an order of reinstatement solely on an adverse inference drawn erroneously ..*"

In the case of Manager, RBI, Bangalore vs. S Mani (2005) SCC Page 100, the 3 Judges Bench of the Apex Court held that "*the initial burden of proof was on the workman to show that he had completed 240 days of service."*

In the case of Mohan Lal vs. Management, BEL 1981 SCC P. 225, Hon'ble Apex Court held, *"Before a workman can claim retrenchment, not being in consonance of Section 25 of the ID act. he has to show that he has been in continuous service of not less than 1 year with the employer who had retrenched him from service."*

Hon'ble Apex Court in the case of Mohan Lal vs Management BEL also laid down the principle that how to count 240 days of service within one year and held: *"Clause (2)(a) provides for a fiction to treat a workman in continuous service for a period of one year despite the fact that he has not rendered uninterrupted service for a period of one year but he has rendered period of 240 days during the period of 12 calendar service for months counting backwards and just preceding the relevant date being the date of retrenchment. In other words, in order to invoke the fiction enacted in clause (2)(a) it is necessary to determine first the relevant date, ie the date of termination of service which is complained of as retrenchment. After that date is ascertained. move backward to a period of 12 months just preceding the date of retrenchment and then ascertain whether within the period of 12 months, the workman has rendered service for a period of 240 days. If these three facts are affirmatively answered in favor of the workman pursuant to the deeming fiction enacted in clause (2)(a) it will have to be assumed that the workman is in continuous service for a period of one year and he will satisfy the eligibility qualification enacted in Section 25-F"*

In the case of Mohan Lal Vs. Management of BEL, Hon'ble Apex Court have held the principle that how to calculate and determine the number of 240 days of continuous service of workman as required u/s 25F and 25B of Industrial Disputes Act, 1947." As per law laid down by the Apex Court, "*continuous 240 days of service for a period of one year should be counted backward and just preceding the relevant date being the date of retrenchment."*

22. Now let us examine in the present matter, the question regarding condition precedent for application of provision of Sec.25F i.e., the completion of 240 days continuous service by the workman put in Respondent employment in a calendar year. In view of the aforesaid discussed decisions of the Apex Court, we have to examine whether workman has discharged his burden of proof in proving his termination in violation of the provision of section 25F of ID Act as he claims. In order to prove his claim, workman has examined himself as WW1 and he has reiterated in his statement in chief the averment made by him in his claim petition.

23. Further, WW1 in his cross examination states that:- "I was given an appointment as messenger on a temporary basis in the year 1986 for 70 days. I didn't work continuously. I used to work depending upon the availability of the work in the branch. I applied for an appointment as a temporary messenger in response to call letter

issued by the bank and union. In the year 1989 I was called for an interview and my name was included in the panel of temporary messengers in the year 1989."

Further WW1 states that, "It is true that I didn't give any representation stating that I was terminated from service and that I want reinstatement into service. It's not true to say that I wasn't terminated from service and I am not getting the work as all the vacancies in the bank were filled up on regular basis as per settlements. It is true that I didn't work for 240 days in any year in my entire service in the bank in any branch."

WW1 also states that, "In between 1986 to 1987, I worked for 70 days after 1989 I worked for 242 days. From July 1996 to June 1997 I worked for 242 days."

24. Thus, WW1 in chief and cross examination statement he has stated that, he didn't work continuously for 240 days in any calendar year just preceding from the date of his termination i.e. 31st March 1997. Thus, in view of the provision of section 25F, 25B of ID Act and law laid down by the Apex Court as cited above, he has failed to prove the fact of 240 days continuous service as per provision of Sec.25F and 25B of Industrial Disputes Act, 1947. Further workman has also filed documentary evidence i.e., Ex. W1 – Photocopy of his caste certificate, Ex. W2 – Photocopy of school transfer certificate, Ex. W3 photocopy of employment card, Ex.W4 photocopy for interview letter. Further, Ex. W5 - photocopy of service certificate dated 17th December 1986 issued by respondent to the effect that the workman has worked as temporary messenger in State Bank of India Hyderabad Main Branch for 70 days from 7th October 1986 to 15th December, 1986. Further Ex. W6 – photocopy of correspondence regarding application for recruitment moved by petitioner and he was called for interview in July, 1989. Ex. W8 – photocopy of service certificate dated 12th March, 1997 and therein it is mentioned that the petitioner workman has worked in the respondent bank for 35 days. Ex. W9 – photocopy of service certificate to the effect that, workman has worked for a period of 190 days from 2nd September 1996 to 10th March 1997. Thus, documents Exs.W5,W7,W8 and W9 pertain to number of working days, that put in by the workman in the employment of Respondent upto the date of termination i.e., 31.3.1997. From the oral evidence and document exhibits filed by the Petitioner it goes to reveal that the workman has done work in piece-meal days during the whole period as and when the exigencies required by the Respondent. Meaning thereby he has not done work continuously for 240 days as required by law. Moreover, he himself has admitted this fact in his cross examination.

25. On the other hand, the Respondent witness MW1 states that Petitioner was engaged as a temporary messenger, subject to availability of the work to tide over subordinate staff constraints due to leave vacancies, absenteeism and administrative exigencies. Further MW1 states that the work was not continuous and the Petitioner and other temporary employees did not work continuously. Further, MW1 states that the Petitioner was not sponsored by any employment exchange. He did not undergo the regular process of selection required for appointment as a regular messenger. MW1 categorically states that Petitioner has not worked for 240 days in any year on his entire temporary service in the bank. MW1 also states that the Petitioner and temporary employees were not terminated from service by the bank. The vacancies were filled upon regular basis with the temporary -employees from the panel and these panels were expired in terms of settlement so reached and there was no vacancies to absorb such employees. Since MW1 was not cross examined on the point of above stated facts, the statement of MW1 as stated in chief examination remained uncontraverted. Further, once the Petitioner entered into settlement process of regularization now, he can not make claim under any provision of Industrial Disputes Act, 1947 as the settlement arrived at between the Employees Federation and bank, equally binding upon Petitioner u/s18(1) of Industrial Disputes Act, 1947.

26. Thus, from the above discussed oral as well as documentary evidence of both the parties it delineates that the workman has not worked for mandatory 240 days continuously in any calendar year just preceding from the date of his termination ie., 31st March 1997. Therefore, workman failed to discharge his burden of proof to prove the fact of continuous 240 days service in compliance of provision of Sec.25F and 25B of Industrial Disputes Act, 1947. Therefore, his plea that, he has been terminated from the service by the respondent in violation of provision of section 25F is not tenable. Since he has not completed the tenure of continuous service of 240 days as per provision of Sec.25F and Sec.25B of Industrial Disputes Act, 1947, he is not entitled for the declaration for setting aside the impugned termination order and not entitled for reinstatement into service.

The Points No. I & II answered accordingly.

27. <u>Point No. III</u>:- Point No.III pertains to the question whether petitioner workman is entitled for absorption/regularization in the employment of respondent bank on the post of messenger as per terms and conditions under various settlements arrived at between the federation association of the workman and management of the bank.

28. In view of the terms and conditions arrived at between the federation of Employees and Bank management in the year 1987, 1988, 1991 and 1996 we embark upon to consider the submission/plea made by the petitioner in his claim petition. The learned council for petitioner would submit that as per terms and conditions of various settlement dated 17th November 1987, settlement dated 16th July 1988, settlement dated 26th April 1991, settlement dated 9th January 1991, settlement dated 30th July 1996 arrived at between State Bank of India management and All India State Bank of India Staff Federation, his name was included in the panel 1989 prepared for regularization in the

employment. But despite the vacancies lying in the various branches of respondent bank, he was not given employment and his juniors were provided employment in preference to his candidature. Therefore, he submit for direction to the respondent bank to appoint him as a regular employee in the bank on the basis that he has put in a number of working days in the employment of respondent bank. The workman has placed reliance upon certain decisions of apex court in support of his plea:-

a) State Bank of India vs N Sundar Mani 1976 AIR 1111; b) Kuldeep Singh vs G. M. Instrument Design Development Facilities centre; Civil Appeal Date of Decision 3rd Dec 2010; c) K S Ravindran vs Branch Manager New Delhi , Civil Appeal No. 4220 of 2015, Date of decision 6th May 2015; d) Tamil Nadu Terminated Full Time Temporary LIC Employees Association vs Life Insurance Corporation of India Civil Appeal 6950 of 2009.

29. In order to appreciate the rival contention and evidence of both the parties in the present matter, it would be apposite to mention provisions regarding terms and conditions for the recruitment and regularization of temporary and casual/daily wages workman under settlements dated 17.11.87, 16.7.1988, 27.10.1988, 9.1.1991 and 30.7.1996 arrived at between State Bank of India and Federation of State Bank of India Employees Association. It is admitted fact by both the parties that the recruitment/regularization of the temporary workman and casual/daily wages workman of the Respondent bank has to be regulated by the terms and conditions of these aforesaid settlement arrived at between the parties and the same are binding upon both the parties.

Sec.18(1) of Industrial Disputes Act, 1947 provides:-

" Persons on whom settlements and awards are binding:-

(1) A settlement arrived at by agreement between the employer and workman otherwise than in the course of conciliation proceeding shall be binding on the parties to the agreement."

Respondent contended that under provision of Sec.18(1) of the ID Act, both parties are bound by the terms and conditions enunciated in the settlement and since the Petitioner moved the application for regularization and attended the interview in response to call letter issued under settlement. Now he can not back out from it and can not take plea otherwise. I find force in the argument of Respondent.

In this regard, the reference of case law, wherein the Hon'ble Apex Court in the case of National Engineer Industries Vs. State of Rajasthan, Civil Appeal No.16832/1996 decided on 1.12.1999, three Judge Bench of the Apex Court have held, *"In Ram Pukar Singh and Ors. Vs. Heavy Engineering Corporation and Qrs. [1994] 6 SCC 145 this Court said that a settlement arrived at between the management and the sole recognised union of workmen under section 12(3) read with section 18 of the Act would be binding on all the workmen whether members of the union or not."*

Similarly, in the present matter also Federation of Bank Employees and Bank management has signed the settlements for regularization of temporary and casual employees, therefore, Petitioner workman can not seek any claim outside the settlement.

30. In reply to the claim of the petitioner regarding regularization, the respondent contended that on 17th November 1987 an agreement was signed between the federation and management bank under section 2(P) read with section 18(1) of the ID Act 1947 read with Rule 58 of Industrial Disputes (Central Rules 1957) and as per settlement the temporary employees were categorized into 3 categories detailed as under:

i) Category 'A' : Those, who have completed 240 days of temporary service in calendar months or less after 01.07.1975.

ii) Category 'B': Those, who have completed 270 days aggregate temporary service in any continuous block of 36 calendar months after 01.07.1975.

iii) Category 'C': Those, who have completed a minimum of 30 days aggregate temporary service in any calendar year after 01.07.1975 or minimum of 70 days aggregate temporary service in any continuous block of 36 calendar months after 01.07.1975.

31. In the 1st settlement, it was agreed that the temporary employees as categorized above would be given a chance for being considered for permanent appointment in the Bank's service against the vacancies which are likely to arise during the period 1987 to 1991. On 16th July 1988, a further agreement was arrived at between the Federation and the Bank where by it was agreed to substitute the period for consideration of vacancies as 1987 to 1992 in place of 1987 to 1991 as contemplated under the settlement dated 17.11.1987.

32. Further it is contended that on 27th October 1988 a further agreement was arrived at between the federation and management bank, i.e., third settlement, class 1-A was incorporated according to which all persons who have been engaged on casual basis to work in leave/casual vacancies of messengers, farrash, cash koolies, water boys, sweepers etc., for any of the period mentioned in category A, B, C will be given a chance for being considered for permanent appointment in the bank services against vacancies likely to arise from 1988 to 1992. The Government of

India vide its letter dated 16th August 1990 issued guidelines to all the Public Sector Banks with regards to recruitment and absorptions of temporary employees in public sector banks. The set guidelines were issued to implement on the lines of the approach paper on the issue provided by the committee constituted in this regard. The approach papers specified that the cases of the temporary employees who had put in not less than 240 days of the temporary services in 12 consecutive months and who are entitled to benefit of section 25F of the ID Act may be decided by entering into a settlement with the representative union. **It was further directed that in respect of temporary employees who had put in less than 240 days of service in 12 consecutive months a settlement could be avoided and however if the management so desired they could enter into consolation settlement with the representative union.** It is contended that although the government guidelines envisaged for a settlement in respect of the employees who had put in temporary services of 90 or more days after 1st January 1982, the bank by way of further concession enter into settlement even in respect of those who had put in less than 90 days. As such the question of violation doesn't arise in any case, those were only broad guidelines and not directives. Thus, the claim raised by the disputants in this regard are untenable and devoid of merits. On 9th January 1991, 4th settlement was entered into between the Staff Federation and Management and it was agreed to substitute the year 1992 with 1994 to the first settlement dated 17th November 1987, regarding the cases of temporary employees and casual/ daily wagers separately in the vacancies likely to arise upto 1994, 1995 and 1996 respectively. The separate panels were to be prepared for temporary employees and casual employees for filling up the vacancies arising between 1988 to 1994 in respect of temporary employees and in respect of casual daily wagers. In terms of settlement the management after following the procedure laid down therein prepared the panel of qualified candidates of temporary employees denoted as 1989 panel and also panel of casual/daily wagers denoted as 1992 panel for giving a chance for being considered for permanent absorption. These panels were prepared zone wise separately for messengers and non messengers in descending orders of temporary service put in by the candidates during the stipulated period i.e., 1st July 1975 to 31st July 1988, for it is further contended that for implementation of bipartite settlement in respect of absorption of temporary employees, Regional Labour Commissioner Central conducted conciliation proceedings and an agreement was arrived at between the Federation and the Management and it was agreed that both the panels of temporary employees and daily wagers/casual employees would be kept alive upto March 1997 and the vacancies as agreed to under the afore set out settlement will be filled from the both the list concurrently. This agreement was signed by both the parties on dated 9th June 1995. It is submitted that in pursuance of conciliation proceedings a settlement was arrived at and an agreement was signed between the Federation and Management Bank on 30th July 1996 under section 2(p) read with section 18(1) of ID Rules 1957 which is binding on both the parties that is called 5th settlement. As per 5th settlement it was agreed by Federation and Management Bank that both the panels of temporary employees and daily wagers/casual employees will be kept alive upto March 1997 for filling the vacancies existing/arrived at as on 31st December 1994 and thereafter the panel would lapse. It was also agreed that as leave reserved will be filled by the end of 31st March 1997. Another memorandum of understanding dated 27th February 1997 was signed as per agreement 403 messengerial vacancies were filled from 1989 panel of temporary employees after effecting conversion from full time non messengerial staff in the usual manner. It is further contended that vacancies as agreed upon were filled with eligible candidates in the panels and the petitioner herein has not put in more number of days than those persons who have been absorbed. The petitioner who has put in aggregate temporary services of less than 240 days in a continuous 12 months period during 1st July 1975 to 31st July 1988 had no right to seek a direction to consider his candidature for absorption in the Management Bank under any rule/law except under the settlement entered into thereon. It is further contended that the case of the petitioner has been considered under the settlement dated 17th November 1987, 16th July 1988, 27th October 1988, 9th January 1991 and 30th July 1996. Having got his case considered under the provisions and terms of aforesaid settlements all the provisions and terms of settlement are also binding on petitioner. The Management Bank has not violated any of the provisions and terms of the settlement. Petitioner don't fall under the protected category of employees as provided for and contemplated under the ID Act. He is entitled to rights and obligations regulated under such settlement and panel has been prepared in compliance with terms agreed to under settlement. It is also contended that the aforesaid settlements being expressively time bound and panels prepared in pursuance thereof having lapsed and ceased to exist as at the end of the designated period viz., 31st March, 1997 and the remaining candidates on the panels including the applicant have no right or claim of whatsoever nature as against the Bank as was agreed and undertaken under the settlement. It is further contended that if the petitioner didn't intend to accept the settlement he should've raised the objection before appearing for interview and consequent empanelment. Having claimed the benefits accrued under settlement and the consequent empanelment etc., the applicant is debarred and stopped from questioning the validity of settlement. As per settlement dated 9th January, 1991 vacancies arising upto December, 1994 will be filled from 1989 panel on the basis of seniority and thereafter said panel is to be lapsed and the remaining candidates have no claims and similarly panel of daily wagers enlisted under 1992 panel will be used for filling vacancies which may arise upto end of 1994. Thereafter said panel also stand lapsed and remaining candidates waitlisted therein will have no claim of whatsoever nature for being considered for absorption in the Bank. Therefore it is contended that the panels were already lapsed on 31st March, 1997 and since the vacancies were already filled up by absorbing the temporary attendants under daily wages employees respectively in order of their seniority in the empanelment engaging there services doesn't arise. It is submitted that the person who doesn't have the requisite number of days as per the agreement they can't be considered for permanent absorption. In the advertisement itself it was made clear that candidate will be considered for

absorption in the vacancies that may arise upto 1992. The mere empanelment of the petitioner will not give any right for absorption in favor of the petitioner and keeping alive the panel after 31st March, 1997 is contrary to the settlement arrived between the State Bank of India Staff Federation and Management Bank. Hence, the said settlement have force of law and are binding on parties. By virtue of being on panel, the settlements have been duly acted upon by the applicants and consequently the present applicant is also bound by the terms of such settlements. Therefore allegation made and the relief sought under this claim petition is only untenable, misconceived and devoid of merits. Since the panels under the settlements were expressly made time bound, the last extension of the period expired on 31st March, 1997 in such circumstances those temporary employees who unfortunately couldn't be accommodated for want of vacancies have no further rights to be considered for regularization under this settlement or otherwise. All the above mentioned settlements have been proved by MW1 which have exhibited from Ex.M1 to M6 and MW1 also proved Ex.M7 to M10.

33. Further, Respondent submitted that some writs were filed by certain temporary employees who were also called for interview and empanelled. In Writ Petition No.12964/94, the Hon'ble High Court went into the similar contentions in detail and the learned Judge also referred to the settlements and subsequently held that the petitioners therein were not entitled for any relief and the only relief they can claim is enforcement of settlements, if there is any right flowing from it or it has been violated. The relevant operative portion of the said judgement is as follows:-

"It is needless to state that the settlement arrived at between the All India State Bank of India Staff Federation which is the majority union and the bank management is binding on the petitioners also. It is not at all the case of the petitioner that any of the terms of the settlement has been violated by the Bank's Management. If the petitioner had worked in the Bank on Part-time basis before 31.5.94, that itself would not vest in his a right to claim that his services should be regularised on permanent basis against a full time cadre post. The claim put forth by the petitioner in the present petition is therefore misconceived and not tenable. However, it is open to the petitioner to claim any right which flows from the settlement between the union and the Bank Management. As already pointed out that it is not the grievance of the petitioner that some right which has flown from the settlement in favour of the petitioner has been denied by the Bank Management. Therefore, I do not find any ground, let alone substantial ground, to grant the kind of relief sought for by the petitioner. Writ Petition fails and is accordingly dismissed. No costs".

In view of the above observation of Hon'ble High Court workman can claim his relief within the terms and conditions of settlement. Learned counsel for workman would submit that as per the terms and conditions of settlement arrived at between the Federation of Employees Association and Bank Management the workman was issued call letter and in pursuance of that letter he appeared for interview and his name was included in the panel of the employees for the post of messenger as a regular employee but he was not given appointment by the respondent. It's also contended that the person junior to him has been given the appointment in preference to his candidature.

34. Workman submits that he was asked to attend the interview on 3rd July 1989 and his name was included in the panel. It is further submitted that management terminated his services on 31st March 1997 suddenly although there was sufficient work with the respondent. He has also submitted that there are several vacancies in the respondent bank and he is willing to work in any capacity to eak out his livelihood and to help his poor family members.

35. In support of his plea, workman has examined himself as WW1. In chief examination he has reiterated the claim as made in the petition and stated that the respondent called him for interview by a call letter as per Ex. W6 on 7 June 1989 and this is the second call letter. He appeared in the interview and the officer verified all his original certificates. The interview was conducted for absorption as subordinate staff. After selection instead of providing a regular job to him the respondent has included his name in the panel of temporary workers. Ex. W7 is the service certificate dated 1st July 1989 issued by the respondent prior to second interview. Ex. W8 and W10 are the service certificate issued by respective branches where he worked time to time. Witness also stated that the respondent has not published the seniority list of his category and failed to call for his objection on the said list prior to any retrenchment. It is also stated that respondent has retained his junior in the employment and also recruited some new workers without giving any opportunity to him on priority basis. Further, WW1 was cross examined by the respondent counsel and he states that he used to work depending upon the availability of the work in the branch. He applied for appointment as a temporary messenger, he was called for interview and his name was included in a panel of temporary messengers in the year 1989. Further witness states that the panel was prepared basing upon the number of days of service put in by the temporary employees. Some of the temporary employees whose names were included in the panel were given regular appointments in the bank in order of their seniority in the panel. Witness added that he is not aware of the settlements. Further, he admits that he is not having any document to show that any person who worked for less number of days than him was given appointment in the bank. It's true that he is not having any documents to show that any of his juniors is continuing in the service in the bank. Witness further states that it's true that he didn't work for 240 days in any year in his entire service in the bank in any branch. In further cross examination WW1 he admits that his certification on the call letter is issued for permanent employment. In between 1986 to 1987 he worked for 70 days. Whatever work he was given he worked. Further, he admits that from July 1996

to June 1997 he worked for 240 days. He doesn't know about the agreement between the management and employees federation. He has no knowledge that those who worked upto 1994 only will be regularized.

36. Thus, from the above statement of WW1 it manifests that Petitioner workman's name was included in the panel of 1989 after interview for regularization, but merely inclusion of his name in the panel doesn't entitle him to claim regularization on the post of messenger. WW1 himself admits in his statement that the regularization of workman was done in the order of seniority as enlisted in the panel. It is the claim of Petitioner workman that in view of terms and conditions of settlement panel was prepared and his name was included in the panel but his junior has been regularized by the bank. The burden of proof regarding appointment of junior workman in contravention of panel list, lies upon the Petitioner workman as per rule of Evidence Act. Further, the WW1 himself in his cross examination has admitted the fact that he is not having any document to show that any person who worked for less number of days than him was given appointment in the bank and the petitioner couldn't name even a single workman who has been regularized being junior to him or having less number of working days than Petitioner, in preference of the petitioner. He failed to produce even a single piece of evidence to prove his claim. The workman himself has admitted in his testimony that regularization of workman was done in order of seniority enlisted with panel. Since, as per terms and conditions of settlements the life of panel expired on 31.3.1997, and the term of panel cannot be extended beyond 31.3.1997 unless it is extended by any other settlement. The Learned Counsel for workman also submitted that workman's name was empanelled under the settlement in the list 1989, but due to malafide intention, the Respondent bank did not consider his name for regularization and persons junior to him having less number of days has been extended regularization by the management.

37. On the other hand, Respondent bank has refuted the allegation of the workman and submitted that the regularization was done as per the seniority of the workmen in the empanelled list and no person has been given preference over the seniors or eligible persons. The workman could not produce any evidence regarding malafide intention of the bank as he alleges.

38. The fact of the inclusion of the name of the workman in the panel list for regularization is admitted by both the parties. But the Petitioner alleges that the Respondent has retained his juniors in the employment and also recruited some new workers without giving him opportunity on priority basis. Respondent refuted the allegations of the workman in this regard. As per basic principle of burden of proof lies upon the person who asserts. Therefore, the burden of proof under Sec.101 of Evidence Act, to prove this fact that the Respondent has retained junior to him in the employment and did not provide any opportunity to the workman on priority basis, lies upon the workman . But Petitioner workman failed to discharge his initial burden of proof, in this regard. Therefore, contention of the workman is not acceptable since it being bare allegation without support of any evidence.

39. The Petitioner workman neither in his pleadings nor in his oral or documentary evidence has pointed out any such instance of violation of the seniority of panel list. As regards the submission of the workman's counsel that all the records have been retained by the Respondent regarding preparation and selection of the panel list and Respondent deliberately did not produce it's evidence. It would be pertinent to mention here that the industrial dispute between the workman and Respondent bank arised in the year 1997 and almost 26 years has elapsed since then, but the workman did not endeavour to procure panel list prepared by the Respondent bank wherein name of workman was included. The burden of proof lies upon the workman to prove the violation of panel list in terms of seniority as he alleges. The Respondent has specifiedly denied such violation of seniority in the panel list. Now onus of proof shift upon the workman to prove the violation of the seniority in the list by evidence. But onus has not been discharged by the workman in this regard. He might have procured such list at the initial stage of the industrial dispute or even during the hearing proceeding either through RTI or through other legal mode, by asking to Respondent for it. But, he himself did not took pain to obtain the documents pertaining to his claim of employment. Now, at this stage after a long span of time of about 26 years he can not be permitted to blame the Respondent for it. Moreover, it would be pertinent to mention here that **Civil Appeal No.6883-6884 of 2016, State Bank of India Vs Chinnaponnu & Another,** was filed by workman in the similar matter which was decided on 3.10.2019 wherein, the question was of the jumbling up of list of employees who were temporary employees and casual labour /daily wagers. In that case, the Hon'ble Apex Court has directed to the Respondent bank to file the panel list and in compliance of that direction appellant bank filed the affidavit wherein it was categorically stated:

(a) Only temporary employees were absorbed who were wait listed pursuant to the first settlement of 1987 for which advertisement was issued on 1st August, 1988 and wait list published is in 1992 in accordance with their seniority;

(b) The wait list wi1l operate up-till 31st March, 1997 for vacancies as existed on 31st December, 1994;

(c) The wait list published in the year 1992 does not contain any name of any casual/daily wager but only of temporary employees;

(d) In pursuance to the advertisement dated 1st May, 1991 the appellant - bank received applications from daily wagers/casual employees but in view of the injunction order dated 28th May, 1991 no wait list of these daily wagers/casual employees was prepared and

(e) That there was only one wait list of employees and no other wait list.

40. Thus, the affirmation made in affidavit by Respondent bank was accepted by the Hon'ble Apex Court. Therefore, affidavit filed regarding panel list under the settlement, and the Respondent bank has affirmed that the observation of the temporary employees was done in accordance with their seniority and there was no violation of the seniority of the names mentioned in the panel list. Therefore, in the absence of any positive evidence, regarding violation of seniority in the list, I am unable to accept the plea taken by workman in this regard.

41. The workman has relied upon the decision of the **Hon'ble Apex Court in the case of State Bank of India Vs. Shri N. Sundara Money, 1976 AIR 1111, therein Hon'ble Apex Cour**t has dismissed the appeal filed by the State Bank of India on the ground that the workman was terminated in violation of the provision of Sec.25F of the Industrial Disputes Act, 1947. But in the present matter the workman failed to satisfy the application of the provision of condition precedent for retrenchment i.e., continuous service of 240 days in one calendar year from the date just preceding from the date of termination as required u/s 25F and 25B of Industrial Disputes Act, 1947. Therefore, workman finds no help from the above citations. Therefore, the allegation of the petitioner that he was not given any employment due to malafide intention of respondent bank or there was violation of seniority in panel list is not acceptable in the absence of any positive evidence on behalf of the workman..

42. The workman has referred number of decisions of Hon'ble Apex Court but these decisions pertain to relief claimed under the provision of Industrial Disputes Act, 1947, whereas in the present matter workman claims on the basis of settlement and same is binding upon both the parties u/s 18(1) Industrial Disputes Act, 1947. Hence, he would not find help from these decisions.

43. Further, it is noteworthy here that as per settlements entered by the Federation of the Employees and Bank Management the process was initiated for regularization of the temporary employees and casual workman and interview was taken of all the temporary employees including the workman by the respondent and as per norms name of the workman in order of seniority was enlisted and the petitioner in response to the interview letter appeared for interview with all his relevant documents voluntarily then he is deemed to have seek his claim for regularization under the terms and conditions of the said settlement and his name was included in the panel 1989 for regularization and the regularization was done by the respondent management in order of seniority in the list. The life of said panel was to be expired on 31st March 1997, and it was prepared only for the vacancies to be occurred upto 31st December 1994. Since all the vacancies were duly filled as per terms and conditions of the settlement and the panelists exhausted with the vacancies occurred upto 1994 and panel cease to expire on 31st March 1997. Now, Petitioner can't claim his entitlement for regularization on the basis of that panel as the panel list has already been expired and exhausted on 31st March, 1997.

44. The reference of the decision of the Apex Court in the case of **State of UP vs Harish Chandra AIR 1996 SC 2173** is pertinent to mention here. In that case the question of law was involved whether High Court justified in issuing a mandamus to the appellant to make recruitment of the respondents who were in the select list of the year 1987 even after the expiry of the said list, the list under the recruitment rules having the force only for a period of 1 year from the date of selection. Hon'ble Apex Court have held,

"Notwithstanding the aforesaid Statutory Rule and without applying the mind to the aforesaid Rule, the High Court relying upon some earlier decisions of the Court came to hold that the list does not expire after a period of one year which on the face of it is erroneous. Further question that arises in this context is whether the High Court was justified in issuing the mandamus to the appellant to make recruitment of the Writ Petitioners. Under the Constitution a mandamus can be issued by the Court when the applicant establishes that he has a legal right to the performance of legal duty by the party against whom the mandamus is sought and said right was subsisting on the date of the petition. The duty that may be enjoined by mandamus may be one imposed by the Constitution or a Statute or by Rules or orders having the force of law. But no mandamus can be issued to direct the Government to refrain from enforcing the provisions of law or to do something which in contrary to law. This being the position and in view of the Statutory rule contained in Rule 26 of the Recruitment Rules we really fail to understand how the High Court could issue the impugned direction to recruit the respondents who were included in the select list prepared on 4.4.87 and the list no longer survived after one year and the rights, if any, of persons included in the list did not subsist."

In syndicate Bank and other Vs. Shankar Paul AIR 1997 SC 3091, it was held that, "*Temporary were made from the panel of eligible candidates prepared by calling names from employment exchange, the panel was valid for only year. When the said employee claimed permanent absorption in service, the Apex Court has held that , whatever conditions regarding these empanelled candidates had they come an end on the expiry of one year."*

Similarly, in the present matter also the select list of the workman i.e., panel as agreed by settlement was to be expired on 31st March 1997. Therefore, it cannot be further extended in any circumstances because the respondent bank and the petitioner employee both are bound by the panel list and its expiry term as agreed under the settlement. Respondent contended that the panel 1989 was prepared for regularization and it exhausted on 31st March 1997 after filling the vacancies which occurred up to the 31st December 1994 and the candidates empanelled in that list were given the regularization in order of seniority. The Petitioner could not prove contrary to it.

45. Therefore, the claim of the workman for regularization in terms of settlement is unfounded and devoid of merits as workman failed to prove his plea. Therefore, in view of the foregoing discussion I am of the considered view that the petitioner workman failed to establish his claim for regularization as he alleged in his petition.

This point is answered accordingly.

46. **Point No.IV :-** In view of the findings given in Points No. I, II & III, I am of the opinion that petitioner workman is not entitled for any relief either for of reinstatement or regularization in the employment of respondent and he is not entitled to any relief. His petition is unfounded, devoid of merits and liable to be dismissed.

RESULT

In the result, the reference is answered as under:

The action of the management of State Bank of India, Local Head office, Hyderabad in terminating the services of Shri N. Shankara Rao, Temporary messenger by way of oral orders with effect from 31.3.1997 is held justified. Hence, the workman is not entitled to any relief as prayed for, as such, the claim of the petitioner is dismissed. Reference is answered accordingly.

Award is passed accordingly. Transmit.

Typed to my dictation by Smt. P. Phani Gowri, Personal Assistant and corrected by me on this the 30th day of May, 2023.

IRFAN QAMAR, Presiding Officer

Appendix of evidence

Witnesses examined for the Petitioner	Witnesses examined for the Respondent
WW1: Sri N. Shankara Rao	MW1: Sri Alluru Rama Rao

Documents marked for the Petitioner

Ex.W1:	Photocopy of caste certificate of WW1.
Ex.W2:	Photocopy of Transfer Certificate of school
Ex.W3:	Photocopy of employment card
Ex.W4:	Photocopy of interview call letter
Ex.W5:	Photocopy of service certificate dt. 17.12.1986
Ex.W6:	Photocopy of call letter for interview
Ex.W7:	Photocopy of service certificate dt. 1.7.1989
Ex.W8:	Photocopy of service certificate dt. 12.3.1997
Ex.W9:	Photocopy of service certificate dt. 11.3.1997
Ex.W10:	Photocopy of service certificate dt. 31.3.1997

Documents marked for the Respondent

Ex.M1:	Photocopy of settlement between Respondent and All India State Bank of India Staff Federation dt.17.11.87
Ex.M2:	Photocopy of settlement between Respondent and All India State Bank of India Staff Federation dt.16.7.88
Ex.M3:	Photocopy of settlement between Respondent and All India State Bank of India Staff Federation dt.27.10.1988

Ex.M4: Photocopy of settlement between Respondent and All India State Bank of India Staff Federation dt.9.1.1991

Ex.M5: Photocopy of conciliation proceedings before the Regional Labour Commissioner(C) dt.9.6.1995

Ex.M6: Photocopy of settlement between Respondent and All India State Bank of India Staff Federation dt.30.7.1996

Ex.M7: Photocopy of Memorandum of understanding dt. 27.1.1997

Ex.M8: Photocopy of statements giving the particulars of 1989 messenger panel.

Ex.M9: Photocopy of statement of 1989 Non0messenger panel

Ex.M10: Photocopy of statement of 1992 panel

Ex.M11: Photocopy of order of Hon'ble High Court in WA No.86/98 dt. 1.5.98

Ex.M12: Photocopy of order in SLP No.11886-11888 of 1998 dated 10.8.98

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